Governor Parris N. Glendening

Lieutenant Governor Kathleen Kennedy Townsend
# TABLE OF CONTENTS

## EXECUTIVE SUMMARY
- Introduction ........................................ 5
- Mission ............................................. 5
- Commission’s Mandate ............................... 5

## MEMBERSHIP
- Membership 2001 .................................. 6

## ACTIVITIES OF THE COMMISSION
- Leadership ............................................ 7
- Workgroups formation ................................ 7
- Summary of 2001 Commission Meetings ........... 7
- Coordination with related Commissions and Councils 8
- Participation from U.S. EPA Officials .............. 9
- CEJSC public forums and reports ..................... 10

## FOCUS AND PRIORITIES FOR CEJSC

## APPENDICES
- Appendix A: Commission’s Executive Order ........ 13
- Appendix B: Commission Members and Affiliation ... 17
- Appendix C: Community Index Work Group Draft Report 19
- Appendix D: MDE Environmental Justice Strategic Plan 25
- Appendix E: EPA’s Commitment to Environmental Justice 46
- Appendix F: Briefs to E.J. Commission on December 12, 2001 49
EXECUTIVE SUMMARY

Purpose

The Maryland Commission on Environmental Justice and Sustainable Communities has completed its first annual report. At Maryland’s annual Environmental Legislative Summit on January 21, 2002, Mr. Scot T. Spencer, the Commission’s Chairman, presented an official report to Maryland’s Governor, Parris Glendening for his review and consideration. The report contains the Commission’s findings and recommendations in accordance with an Executive Order issued by the Governor on January 1, 2001.

Background

The Commission held its inaugural meeting on May 11, 2001. The Maryland Department of the Environment’s Secretary, Jane Nishida, Assistant Secretary Denise Ferguson-Southard and the Commission’s Chair, Scot T. Spencer, presented the charge and goals to the Commission. The Commission has had seven (7) meetings since its first meeting in addition to the first community forum, which was held on December 21, 2001. The Commission’s meetings have identified several problematic areas of concern across the state of Maryland. There is significant concern about the full integration of stakeholder-based/community involvement and planning within the framework of the regulatory mandates, processes, and procedures. General concerns articulated by Marylanders during the 2001 meetings include inequities in research practices associated with lead paint studies, power plant siting, landfill siting, the provision of wastewater and sewer infrastructure, permitting, hearing processes, public outreach, and involvement, and protection of public health.

The Commission has made several recommendations that could result in the development of more sustainable communities. One concept that is intriguing to the Commission is the development of a comprehensive framework to respond to environmental inequities in targeted communities. This concept builds on the foundations of Maryland’s Smart Growth paradigm and those created by the visions adopted as State policy in the 1992 Growth Act.

This concept embodies the development of policies with the use of State resources that support communities and influence the location of specific development. It will attempt to use the authority of state government in communities designated by counties and local government as environmentally challenged or higher risk communities. These designated communities would receive priority attention that could manifest in several forms: additional compliance and enforcement activities, additional state funding and tax benefits, and special analyses of potential developmental benefits and impacts, with the idea of steering away environmentally detrimental activities while encouraging environmentally and economically beneficial ones.

The Commission is looking at mechanisms to identify high-risk communities so that state agencies can focus their limited resources on the highest priority areas. To facilitate this identification, the Commission has started to develop criteria to better define high risk or environmentally challenged communities.
Recommendations

This initial Commission report recognizes the unique challenges faced by many Maryland communities and is recommending the integration of an environmental justice and sustainable communities ethic within all state agencies. In this context, the Commission is recommending that state agencies develop plans using MDE’s Strategic Environmental Justice Plan as a guideline for developing a comparable approach in achieving their own agency missions.

The Commission recommends the use of alternative dispute resolution (ADR) as a response mechanism to community-based environmental disputes. We are striving to develop innovative practices and approaches that can better lead to resolving environmental disputes before executive branch agencies in Maryland.

The Commission also recommends continued education of state agencies on environmental justice and sustainable communities, with special attention given to marginalized and disenfranchised communities; the creation of state-wide community forums to discuss these issues; the development of environmental justice related guidance for state agencies; focused effort to improve public participation before agencies; and, the building and strengthening government “infrastructure” at local levels to support marginalized communities.

Finally, the Commission applauds Governor Glendening for his vision and foresight to innovate in this area. The members have recognized the enormity of the Commission’s tasks. They do not see these tasks as challenges, but as opportunities to build upon and strengthen all of Maryland communities, consistent with the state’s legacy of inclusion and sustainable communities.
INTRODUCTION

On March 9, 2001, Governor Parris N. Glendening formally announced the establishment of Maryland’s Commission on Environmental Justice and Sustainable Communities in accordance with an executive order issued on January 1, 2001. State lawmakers joined the Governor and environmental justice advocates who fully supported the initiation of this worthy effort.

The Maryland Commission on Environmental Justice and Sustainable Communities (CEJSC) Executive Order is the first one ever to be issued by a state. It marks a bold gesture by Maryland in fulfilling its commitment to enhance the quality of life in all of Maryland’s communities and for all residents. It is consistent with the approach taken by the federal government in Executive Order 12898 issued by President Clinton on February 11, 1994.

Environmental justice seeks equal protection from environmental and public health hazards for all people regardless of race, income, culture, and socio-economic class. Additionally, environmental justice means that no one group of people should bear a disproportionate share of the negative environmental consequences resulting from land-use, planning or zoning decisions, governmental or commercial operations or as a result of any inequities in the application of governmental regulatory programs and related policies.

MISSION

The mission of the Commission is concerned about developing strategies to enhance the quality of life in all Maryland communities through a vision of superior environmental protection and intelligent economic development that eliminates sprawl and supports the optimal use of existing infrastructure while protecting our unique natural resources. At its foundation is the tenet that, regardless of race, national origin, age, or income, no segment of our population should bear disproportionately high and adverse effects of environmental pollution. Finally, the Commission endeavors to address environmental concerns within communities and provide new economic opportunities, while enhancing and preserving the ecological integrity of the environment and protecting human health. In this aspect, the Commission strives to identify sustainable economic opportunities for Maryland communities while identifying opportunities for state agencies to protect human health. The Commission will also attempt to identify opportunities for state regulatory programs to improve quality of life for all Marylanders and ensure fair treatment of all citizens in those programs.

COMMISSION’S MANDATES

Under the directions highlighted in Executive Order 01.01.2001.01 (Appendix A), the Commission shall perform the following duties:

(1) Advise State agencies on environmental justice and related community issues;

(2) Review and analyze the impact of, including determining whether a causal relationship exists between, current State policy, laws and regulations on the issue of environmental justice and sustainable communities;
(3) Assess the adequacy of State and local government laws and regulations to address the issue of environmental justice and sustainable communities;

(4) Coordinate with the Children's Environmental Health and Protection Advisory Council on recommendations related to environmental justice and sustainable communities;

(5) Develop criteria to assess whether communities of the State may be experiencing environmental justice issues; and

(6) Recommend options to the Governor for addressing issues, concerns, or problems surfacing through the review process, prioritizing areas of the State, which are targets for immediate attention.

**MEMBERSHIP (see appendix A for Commission’s composition)**

<table>
<thead>
<tr>
<th>MEMBER</th>
<th>AFFILIATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scot T. Spencer, Chair</td>
<td>Environmental Defense</td>
</tr>
<tr>
<td>Senator Ulysses Currie</td>
<td>State Senate Appointment</td>
</tr>
<tr>
<td>Mary Rosso</td>
<td>House of Delegates Appointment</td>
</tr>
<tr>
<td>Jane Nishida</td>
<td>Maryland Department of the Environment</td>
</tr>
<tr>
<td>Georges Benjamin</td>
<td>Maryland Department of Health and Mental Hygiene</td>
</tr>
<tr>
<td>Roy Kienitz</td>
<td>Maryland Department of Planning</td>
</tr>
<tr>
<td>Sherilynn Ifill</td>
<td>Professor, University of Maryland</td>
</tr>
<tr>
<td>Tracey D. Newsome</td>
<td>Center for Poverty Solutions</td>
</tr>
<tr>
<td>Stephanie Proestel</td>
<td>Housing Initiative Partnership</td>
</tr>
<tr>
<td>Timothy Pula</td>
<td>Struever Bros. Eccles &amp; Rouse</td>
</tr>
<tr>
<td>Bill Stack</td>
<td>Baltimore City Department of Public Works</td>
</tr>
<tr>
<td>Barrie P. Tilghman</td>
<td>Mayor of Salisbury</td>
</tr>
<tr>
<td>Bonnie Wilson</td>
<td>Safety Kleen</td>
</tr>
<tr>
<td>Jean Yarborough</td>
<td>Community Association</td>
</tr>
<tr>
<td>Andrew Sawyers</td>
<td>Staff</td>
</tr>
</tbody>
</table>
ACTIVITIES OF THE COMMISSION

Leadership

Mr. Scot. T. Spencer has ably served as the Commission’s first Chair, as designated by Governor Parris Glendening. Andrew Sawyers, Coordinator for Environmental Justice and Community Planning with the Department of the Environment, provides staff support to the Commission.

Work Groups Formation

In order to facilitate a comprehensive work plan, for the Commission established four work groups to target its efforts in achieving the mandates of the Executive Order (see appendix B for workgroup members). Those workgroups are:

- **Community Index Workgroup**, Acting Co-Chairs, Jim Richmond and Mary Rosso
- **Regulatory Workgroup**, Co-Chairs, Mary Rosso and Andrew Sawyers
- **Siting and Zoning and Economic Development**, Acting Chair, Tim Pula
- **Community Health and Protection**, Acting Chair, Dawn MC Cleary.

The community index workgroup has been charged with the responsibility of developing a basic framework for the Commission to identify communities that may be disproportionately affected by regulatory and private activities in a manner that may create environmental justice concerns. A preliminary draft report incorporating integral components of that framework is contained in Appendix C. The other workgroups will develop their frameworks and work plans in 2002. See appendix C for Community Index’s Work Group draft plan.

Summary of 2001 Commission Meetings

General Overview

The Commission held its inaugural meeting on May 11, 2001. Secretary Nishida, Assistant Secretary Denise Ferguson-Southard and Chairman, Scot T. Spencer, presented the charge and goals to the Commission. The Commission has had seven (7) meetings since its first meeting in addition to the first community forum, which was held on December 21, 2001.

The Commission has discussed a variety of topics and issues since its inaugural meeting. One of the noteworthy events that occurred during the 2001 meetings was the review and approval of the Maryland Department of the Environment’s Strategic Plan on Environmental Justice and Sustainable Communities (Strategic Plan). The Commission deliberated for several meetings and ultimately adopted the Department’s Strategic Plan as a model approach that should be embraced by other state agencies. The Commission is recommending in this first report that all state agencies develop similar plans using MDE’s Strategic Plan as a tool and guideline for developing comparable approach for use in their achieving their own regulatory missions. See Appendix D for MDE’s Plan.
The Commission’s meetings have also identified several problematic areas of concern across the state of Maryland. There is significant concern about stakeholder-based/community planning and environmental issues within the framework of the regulatory mandates, processes and procedures. General concerns include inequities in research practices associated with lead paint studies and outcomes, power plant siting, landfill siting, wastewater and sewer infrastructure, permitting, and hearing processes. There is recognition among many citizens that the issues of environmental justice and sustainable communities should be elevated within regulatory agencies and provided appropriate resources and response mechanisms to resolve these concerns.

Citizens have deemed the following additional areas as needing immediate attention. These include (1) protection from environmental and public health hazards for all people regardless of race, income, culture and social class; (2) engagement with stakeholders – particularly community interest groups to improve outreach efforts, environmental education, and community planning efforts that can inform and improve environmental decision-making processes; (3) examining demographic and other socio-economic information to mitigate potentially disproportionate impacts and negative environmental consequences resulting from private or public operations or the execution of federal, state, local and municipal program and policies; (4) developing permitting standards and regulatory authority to consider and resolve environmental justice and community sustenance concerns; and, (5) actively engaging efforts to improve children’s health and support research efforts that can improve knowledge and operationalization in all the topical areas.

Finally, the meetings have yielded some initial strategies, formulated in the context of the Commission’s mandate that may serve to enhance the quality of life in Maryland communities through a vision of collaborative partnerships with government. These include enabling proactive community and other stakeholder planning and outreach efforts to go hand in hand with environmental protection and economic development. To facilitate these efforts, the Commission will initiate workshops and forums to solicit information from stakeholders across the State in an effort to develop and recommend appropriate paradigms which may help create sustainable and engaged communities. Additionally, several other efforts have been recommended that ultimately could result in the development of sustainable community development strategies. These include:

- Identifying high-risk communities so that state agencies can focus their limited resources on the highest priority problems;
- Developing criteria to better define high risk or environmentally challenged communities;
- Creating a database of high risk or environmentally challenged communities;
- Developing a comprehensive framework that builds on the Maryland’s Smart Growth paradigm. This paradigm would engage different tools and strategies that would not only identify challenged communities but be responsive when and where appropriate with state resources;
- Developing alternative dispute resolution (ADR) strategies as response mechanisms for environmental disputes;
- Using neutral third parties more frequently, where appropriate and financially feasible to facilitate dialogues and ADR processes;
• Integrating environmental justice into the core mission of state agencies;
• Improving the training and tools made available to permit writers and increase permit writers’ awareness of environmental justice concerns and what can be done about them;
• Improving community-based monitoring to identify emissions that cause the most concern;
• Increasing the resources available for communities to participate in the permitting process; and,
• Working more closely with communities

Coordination with related Councils:
The Commission’s mandate requires it to collaborate with the Children’s Environmental Health Policy Advisory Council (CEHPAC) to better achieve environmental justice and sustainable communities. CEHPAC and the Commission achieve that goal through the exchange of minutes and materials, as well as through the attendance of Ms. Tracey Newsome-Smith, who is a member of both groups. Additionally, the Commission will work closely with the Lead Commission, as well as the Sewer Task Force and other Commissions or Council’s to the extent that there are common interests and issues that those entities are addressing and will enhance its work.

Participation from the U.S. Environmental Protection Agency
One of the many opportunities that the Commission has availed itself of is obtaining input from interested parties that can bring experience and expertise to bear on achieving its mandates and mission. One of the entities, which has valuable experience and insight into environmental justice issues locally and nationally, is the U.S. Environmental Protection Agency (EPA). Representatives from both the national headquarters and the Region III Office, which includes Maryland within its jurisdiction, have brought interesting and unique perspectives to the discussions. Two prominent individuals within the EPA hierarchy who have made presentations to the Commission this year are Mr. Charles Lee, the Director of Policy and Research in the Office of Environmental Justice and Mr. Barry Hill, the Director of the Office of Environmental Justice. Summarized below are the presentations provided by the EPA representatives.

Mr. Hill discussed EPA’s environmental justice program by highlighting its core responsibility, which is to promote and oversee the full integration of environmental justice into all Agency programs, policies, and activities, consistent with existing environmental laws and their implementing regulations. Currently, the Office of Environmental Justice (OEJ) is focusing its efforts upon integrating environmental justice into the Resource Conservation and Recovery Act (RCRA), the Clean Air Act (CAA), and the Clean Water Act (CWA) permitting programs nationally.

Mr. Hill described the capabilities of EPA’s recently introduced Environmental Justice Mapper, which is a tool for investigation, evaluation, and assessment of environmental justice complaints and communities at risk. The Mapper will provide the following tools for use in researching environmental justice issues:
• Links to the health-related database of the Department of Health and Human Services;
• Links to demographic data provided by the Bureau of the Census;
• Links to the database system of the Department of Labor’s Occupation Safety and Health Administration; and,
• Links to OECA’s database system regarding a facility’s compliance information.

Mr. Hill also emphasized the importance training in environmental justice for state agencies and the need to develop guidance for state officials. He also highlighted the need for Alternative Dispute Resolution (ADR) and discussed EPA’s commitment to the issue of environmental justice. This was made particularly clear with the issuance of EPA’s Administrator’s memorandum on EPA’s commitment to integrating environmental justice in all its programs. See Appendix E for EPA’s memorandum on Environmental Justice.

Mr. Charles Lee’s presentation focused on broadening the view of environmental justice and sustainable communities by suggesting the need for all state and local agencies to incorporate environmental equity and community sustainability plans within their operational activities. The presentation further identified the need for collaborative strategies as the most optimal methodologies for sustaining communities. Mr. Lee provided information on a pilot project that his office has developed to identify and nurture opportunities, is certain communities, for developing these collaborative strategies which integrate a community-visioning process with development of a action plan to implement that vision. It involves an inclusive process with a variety of constituents, ranging from community leaders and residents, to business and governmental representatives.

Aside from these EPA representatives, each Commission meeting has been attended by at least one member of EPA’s Region III Office of Environmental Justice from Philadelphia, Pennsylvania. Although they have not been involved in providing formal presentation, their involvement and input into many discussions, which has occurred during Commission meetings has been supportive, informative, and welcome. Those individuals are Mr. Reginald Harris and Mr. Harold Yates.

**CEJSC First Public Forum**

**On December 12, 2001**, the Commission held its first public reporting and briefing session concerning environmental justice and sustainable communities. The meeting went very well and achieved its main objective, which was to allow Maryland citizens to meet state legislators and Commission members and voice their positions and concerns regarding environmental justice issues within their communities. Several legislators, notably, Senator Neal, Currie, Delegates Rosso, and Boschert were in attendance. The community participants were appreciative of the opportunity and made several important recommendations to the Commission.

The briefing, which was held in the Joint Hearing Room, Legislative Services Building, 90 State Circle, Annapolis Maryland, focused on issues and concerns that included the development of
Chesapeake Terrace Landfill proposal; lead poisoning research, expansion or reopening of a landfill in the Shipley Hill/Carroll area of Baltimore City; industrial activities and inappropriate zoning near communities of color in Central Prince Georges County; and the potential permitting of multiple power plants in the Point of Rocks Community. In addition, residents from Oxon Hill, Maryland, wrote a letter for distribution at the forum discussing their concerns with the propose National Harbor Project in Prince Georges County.

The landfill issue in both Central Prince Georges County and Baltimore County involved concerns that the communities’ rights were violated based upon limited opportunity to provide public input. It was also articulated by residents that public health hazards and impacts would result from any development or expansion of landfills in the three identified communities. All of the speakers felt that their communities would bear a disproportionate share of the negative environmental consequences resulting from the industrial, land-use planning and zoning, municipal and commercial operations within the Prince Georges and Baltimore communities with respect to these landfills. They also indicated that the projects would not work to enhance the quality of life in their communities. See appendix F. for full briefing to CEJSC on December 12, 2001 concerning landfills.

The Point of Rocks community member who testified represented that the community is opposed to the siting of five or six power plants within that area. It was suggested that the lands targeted for industrial development are clearly zoned as agricultural lands, and the placement of these plants would circumvent a carefully crafted, integrated zoning plan for the Point of Rocks area, although it appears that a state agency may have the ability to legally override local planning in these circumstances. Other problems identified during the testimony included the disruption of historical artifacts and heritage; the over use of water from the Potomac; air pollution; and excessive nitrogen pollution. See appendix F. for full briefing to CEJSC on December 12, 2001 concerning power plants.

The Commission was briefed on concerns related to lead research undertaken by Kennedy Krieger Institute (KKI) in 1993-1995. The representatives acknowledged that while KKI’s intentions were good, there might have been inappropriate communication with the children and parents who were involved in these studies. See appendix E. for full briefing to CEJSC on December 12, 2001 concerning KKI lead research.

Residents in Oxon Hill Maryland are concerned about the proposed National Harbor project and the potential impacts upon their community. They suggested that a more appropriate project should be sited in the heart and downtown of Oxon Hill. See appendix E. for full briefing to CEJSC on December 12, 2001 concerning Oxon Hill Residents concerns.
FOCUS AND PRIORITIES FOR CEJSC

The Commission will strive to develop innovative practices and approaches that can better lead to resolving environmental contestations before executive level regulatory agencies in Maryland. In so far, as the Commission’s mandate and regulatory instruments will allow, the following areas will be the primary focus of the Commission in the next calendar year;

- Continue to heighten awareness of environmental justice and sustainable communities among State regulators, with special attention to marginalized and disenfranchised communities;
- State-wide community forums to discuss E.J. and sustainable community issues;
- Continue discussions and meetings to solicit best practices and innovative recommendations that may be important in the context of improving sustainability of communities;
- Resolve the challenges of ensuring that all appointed members regularly attend the meetings: at least three members have not attended any meetings;
- Develop community characterizations projects and analyses;
- Develop E.J. related permitting review guidance for MDE and other state agencies;
- Build alliances and relationships with various stakeholders via meetings, MOUs and other forms of agreement;
- Coordinate and recommend efforts to improve public participation before regulatory agencies;
- Build and strengthen government “infrastructure” at local/community levels;
- Identify governmental public policy themes and relationships to environmental justice and sustainable communities;
- Actively encouraging existing and new agency demonstration projects;
- Work with governmental policy makers to consider proactive and preventative approaches;
- Integrate the environmental justice and sustainable community approaches into state agency practices and also community planning;
- Create opportunities with assistance from regulators and state agencies to stabilize administrative support for Council;
- Develop more coordinated regulatory approaches to environmental justice;
- Create beneficial relationships in the areas of Smart Growth, Children Youth and Families (environmental health issue, etc.), Environmental Crime and Safety and Brownfields;
- Develop a sustainable community index in the context of key focus areas;
- Encourage all state agencies to develop E.J. and sustainable communities plan; and,
- Develop livable communities’ indicators.
APPENDIX A
House Bill 1350
CHAPTER 741
(House Bill 1350)

AN ACT concerning

Citizens Advisory Council on Environmental Justice

FOR the purpose of establishing a Citizens Advisory Council on Environmental Justice; establishing the membership, duties, purposes, and staffing of the Advisory Council; requiring the Advisory Council to develop a draft State Policy Issue a report on Environmental Justice; requiring the Advisory Council to make a report to certain persons by a certain date; providing for the effective date and termination of this Act; and generally relating to the Citizens Advisory Council on Environmental Justice.

BY adding to

Article 41 — Governor — Executive and Administrative Departments
Section 18-313
Annotated Code of Maryland
(1997 Replacement Volume)

Preamble

WHEREAS, The General Assembly recognizes the importance of equal protection of the citizens of the State with regard to State action protecting the public health, welfare, and environment; and

WHEREAS, Historical decisions on land use and siting of industrial development and its byproducts have placed an inordinate burden of environmental degradation on communities disadvantaged by ethnic background, low income, and ignorance; and

WHEREAS, These decisions are perpetuated based on the current environmental and economic conditions of these communities, giving rise to issues of environmental justice; and

WHEREAS, The State of Maryland has made significant efforts to support the redevelopment of brownfield areas in order to clean up the degraded environment of affected communities and to provide new economic opportunities in these communities while preserving pristine areas from sprawl and pollution; and

- 4204 -
PARRIS H. GLENDENING, Governor

WHEREAS, Brownfields redevelopment is a major part of efforts throughout the nation to address issues of environmental justice; and

WHEREAS, Equal protection of all of our citizens, including those in-affected communities, may best be afforded by increasing the involvement of communities affected by regulatory programs, policies, and permit actions in their development, taking into account not only the physical health of the people and the environment, but also the social, economic, and psychological health of the communities, now, therefore;

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 41 – Governor – Executive and Administrative Departments

18-313. (A) 1. IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED:

(2) "ACTIVITY" INCLUDES ADOPTION OF REGULATIONS, PERMIT ISSUANCE, SITING ACTIVITIES, AND ENFORCEMENT ACTIONS.

(3) "ADVISORY COUNCIL" MEANS THE OFFICERS ADVISORY COUNCIL ON ENVIRONMENTAL JUSTICE.

(4) "AFFECTED COMMUNITY" MEANS THE INDIVIDUALS WHO LIVE WITHIN A COMMUNITY AND WHO ARE PEOPLE LIVING IN AN AREA AFFECTED BY THE ACTIONS, ACTIVITIES, PROGRAMS, OR POLICIES OF A STATE UNIT, INCLUDING PERMITTING DECISIONS, THAT HAVE AN IMPACT ON HUMAN HEALTH OR THE ENVIRONMENT.

(5) "ENVIRONMENTAL JUSTICE" MEANS EQUAL PROTECTION FROM ENVIRONMENTAL AND PUBLIC HEALTH HAZARDS FOR ALL PEOPLE REGARDLESS OF RACE, INCOME, CULTURE, AND SOCIAL CLASS.

(B) THERE IS AN ADVISORY COUNCIL ON ENVIRONMENTAL JUSTICE.

(C) THE ADVISORY COUNCIL CONSISTS OF THE FOLLOWING 15 MEMBERS:

(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE ATTORNEY GENERAL, OR THE DESIGNEE OF THE ATTORNEY GENERAL;

(4) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

(5) THE SECRETARY OF THE ENVIRONMENT, OR THE SECRETARY'S DESIGNEE;

- 4205 -
(6) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR
THE SECRETARY'S DESIGNEE

(2) ONE REPRESENTATIVE FROM THE MARYLAND ASSOCIATION OF
COUNTIES;

(9) THE SECRETARY OF BUSINESS AND EMPLOYMENT DEVELOPMENT;
OR THE SECRETARY'S DESIGNEE

(6) ONE REPRESENTATIVE FROM THE MARYLAND MUNICIPAL LEAGUE;
AND

(9) (i) 3 MEMBERS APPOINTED BY THE GOVERNOR, AS FOLLOWS:

(1) TWO INDIVIDUALS FROM EACH OF THE FOLLOWING
COMMUNITIES OF INTEREST:

1. COMMUNITY ASSOCIATIONS ESTABLISHED IN
   AFFECTED COMMUNITIES;

2. NOT-FOR-PROFIT ADVOCACY GROUPS CONCERNED
   WITH THE HEALTH, WELFARE, AND THE ENVIRONMENT OF AFFECTED
   COMMUNITIES; AND

3. HEALTH AND ENVIRONMENTAL PROFESSIONAL
   ORGANIZATIONS;

4. CORPORATIONS AND INSTITUTIONS OF HIGHER
   EDUCATION IN THE STATE; AND

5. A REPRESENTATIVE OF THE MARYLAND FARM BUREAU
   STATE OR LOCAL BUSINESS ORGANIZATIONS.

(ii) THREE MEMBERS AT LARGE.

(D) TO THE GREATEST EXTENT PRACTICABLE, THE MEMBERSHIP OF THE
ADVISORY COUNCIL SHALL BE APPOINTED TO ENSURE REGIONAL, ETHNIC,
ECONOMIC, AND GENDER DIVERSITY.

(E) THE GOVERNOR SHALL SELECT A CHAIRMAN FROM THE MEMBERS OF
THE ADVISORY COUNCIL.

(F) (1) THE ADVISORY COUNCIL SHALL HAVE ITS FIRST MEETING NO
LATER THAN JUNE 30, 1997 AT THE CALL OF THE CHAIRMAN.

(2) THE ADVISORY COUNCIL SHALL MEET AT LEAST MONTHLY.

(3) THE ADVISORY COUNCIL MAY ESTABLISH SUBCOMMITTEES FROM
THE MEMBERS OF THE ADVISORY COUNCIL TO ACCOMPLISH THE DUTIES IMPOSED
BY THIS SECTION.

(4) (i) A MEMBER OF THE ADVISORY COUNCIL:

(ii) MAY NOT RECEIVE COMPENSATION; BUT

- 4206 -
THE ADVISORY COUNCIL SHALL:

1. Examine issues relating to environmental justice;
2. Make recommendations on environmental justice issues to the governor and the general assembly;
3. Provide guidance and make recommendations to state and local government units in implementing regarding policies relating to environmental justice; and
4. Develop a draft state policy on environmental justice;
5. Develop implementation tools for state units to use in reviewing existing activities, programs, and policies and in developing their own environmental justice policies;
6. Recommend legislation and executive policies needed to implement a final state policy on environmental justice;
7. Assist in coordinating state and local environmental justice actions and responses; and
8. Study and make recommendations on means to:
   (i) Involve affected communities in community-based planning for environmental and economic enhancement and related coordinated state and local activities, programs, and policies;
   (ii) Increase efforts to integrate public health and planning for revitalization of affected communities, both through brownfields efforts and through other state policies and programs affecting public health, welfare, and the environment;
   (iii) Enhance public participation in policy environmental justice development and implementation regarding affected communities;
   (iv) Increase the awareness and sensitivity of state and local officials to environmental justice issues;
   (v) Assess the impact of state policies, programs, and activities on affected communities; and
(VI) ENCOURAGE PUBLIC-PRIVATE PARTNERSHIPS TO ADDRESS ENVIRONMENTAL JUSTICE ISSUES IN THE AFFECTED COMMUNITIES.

(H) THE GOVERNOR SHALL PROVIDE OFFICE AND MEETING SPACE AND ADMINISTRATIVE STAFF SUPPORT TO THE ADVISORY COUNCIL.

(F) ON OR BEFORE JANUARY 1, 1999, THE ADVISORY COUNCIL SHALL SUBMIT A REPORT FOR DRAFT STATE POLICY ON ENVIRONMENTAL JUSTICE AND ITS RECOMMENDATIONS TO THE GOVERNOR, AND, SUBJECT TO § 2-1312 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 1997. It shall remain effective for a period of 2 years and 1 month and, at the end of June 30, 1999, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved May 22, 1997.
APPENDIX B

Membership of the Maryland Advisory Council on Environmental Justice

MACEJ By Laws
MACEJ Members

Jean Yarborough
Park Heights Networking Community Council
Chairperson
Community Association

Samuel Sanchez
Founder, Raising Hispanic Academic Achievement, Inc. (SAIC)
Community Association

Andrew Sawyers
Roger Lyons
Baltimore Urban League

Bonnie Wilson
Chair, Public Participation, Outreach and Education Subcommittee
Community Affairs Manager
Browning Ferris Industries

Delegate James Hubbard
Maryland House of Delegates
Appointed by Speaker of House

Cheyenne Watson
Prince George's County Commissioner
Maryland Municipal League

Arthur Wiley Ray, Vice Chair
Deputy Secretary
Department of the Environment
MDE Secretary Designee

Robert Venezia
Chair, State and Local Interagency Coordination Subcommittee
DHMH Secretary Designee

Joe Lewandowski, Principal
Environmental Resources Management
State or Local Business Association

John Chiada
Director Environmental Programs
Perdue Farms, Inc.
Member at Large

Delegate Nathaniel Oaks
Maryland House of Delegates
Member at Large

Senator Joan Carter Conway
Maryland State Senate
Appointed by Senate-President

John Mathias
Frederick County Attorney
MACO representative

Jay Sherman
Director of Outreach and Training
Chesapeake Bay Foundation

Tamla Boyer-Robinson
Founder, Environmental Maryland

Karen Pecoraro
Chair, Environmental Health and Research Subcommittee
Senior Engineer, Dames & Moore
BYLAWS OF THE
STATE OF MARYLAND ADVISORY COUNCIL ON ENVIRONMENTAL JUSTICE
November 1997
FINAL (December 8, 1997)

I. NAME

The name of the organization is the State of Maryland Advisory Council on Environmental Justice.

II. AUTHORITY

The State of Maryland Advisory Council on Environmental Justice (hereinafter MACEJ is used to refer to the collective of the Council and all Subcommittees; Council is used to refer to the parent committee of MACEJ) is established by House Bill 1350, "Advisory Council on Environmental Justice", Annotated Code of Maryland, Article 41 §18-313.

MACEJ advises the Governor and General Assembly consistent with the requirements of the Administrative Procedure Act.

III. MISSION AND SCOPE

Created in 1997, MACEJ is the State’s advisory committee for the formulation of recommendations and advice on environmental justice policy and direction. MACEJ provides a forum for public discussion and development of independent advice and counsel to the Governor and General Assembly utilizing the respective strengths and responsibilities of State and local business and industry, local and municipal government, environmental advocacy organizations, grassroots community groups and others involved in environmental justice issues. The Council may consider environmental justice matters relating to State programs.

The Advisory Council on Environmental Justice shall examine issues relating to Environmental Justice. "Environmental Justice" means equal protection from environmental and public health hazards for all people regardless of race, income, culture and social class.

In examining Environmental Justice issues, the Advisory Council on Environmental Justice shall (before January 1, 1999)

1. make recommendations on environmental justice issues to the Governor and General Assembly, and

2. make recommendations to State and local government units regarding policies relating to environmental justice.

In preparing these recommendations to the Governor, General Assembly and State and local government units, the Advisory Council on Environmental Justice shall study and make recommendations on means to
a. involve affected communities and enhance public participation,
b. increase efforts to integrate public health and planning for revitalization of affected communities,
c. increase awareness and sensitivity of State and local officials to environmental justice issues,
d. assess the impact of State policies, programs and activities on affected communities, and
e. encourage public/private partnerships to address environmental justice issues.

IV. MEMBERSHIP

Section 1: Representation of Sectors

MACEJ shall be comprised of fair and balanced representation from a broad range of interests, including State and local business and industry, local and municipal government, environmental advocacy organizations, and grassroots community groups.

Section 2: Appointment Process and Terms

a. Council Members

Council members shall be volunteer representatives who have full voting rights in all Council and Subcommittee Actions.

1. The Council consists of the following 15 members: one member of the Senate of Maryland, appointed by the President of the Senate; one member of the House of Delegates, appointed by the Speaker of the House; the Secretary of Health and Mental Hygiene, or the Secretary’s designee; the Secretary of the Environment, or the Secretary’s designee; one representative from the Maryland Association of Counties; one representative from the Maryland Municipal League; and nine members appointed by the Governor, as follows: two individuals from community associations established in affected communities; two individuals from not-for-profit advocacy groups concerned with the health and environment of affected communities; two individuals representing State or local business organizations; and three members at large. The Governor shall select a chairman from the members of the Council. To the greatest extent practicable, the membership of the Council shall be appointed to ensure regional, ethnic, economic and gender diversity.

2. Each Council member shall serve as a member of at least one MACEJ Subcommittee.

3. Each Council member may designate an individual, other than a current Council member, as an alternate with or without proxy when the appointed Council member is unable to attend Council meetings.
4. A member of the Council may not receive compensation, but is entitled to reimbursement for expenses under the standard State travel regulations as provided in the State budget.

5. The term of membership shall be two (2) years (June 30, 1997 through June 30, 1999).

b. Subcommittee Members

Subcommittee members shall be volunteer representatives named to serve on a specific Subcommittee or other group formed under MACEJ auspices. Subcommittee members shall be full participants in the Subcommittee’s deliberations and have voting rights at this level.

1. Subcommittee Chairs must be a member of the Council.

2. Subcommittee members are nominated, approved and appointed by the full Council. Subcommittee members may be recommended by the Council or the Subcommittee. The term of a Subcommittee member shall be based on the need of the Council and conveyed to the Subcommittee member at the time of the appointment.

3. Subcommittee members shall be selected on the basis of expertise on relevant subject matter and to provide fair and balanced representation. Alternates will be allowed to participate in Subcommittee activities with or without proxy when the Subcommittee member is unable to attend Subcommittee meetings.

c. Expert Witnesses and Consultants

Expert witnesses and consultants may, where necessary, provide specialized information or assistance to MACEJ. Experts and consultants have no voting rights. Expert witnesses and consultants may be invited by the individual Council members or Subcommittee members in consultation with the Chair of either MACEJ or a Subcommittee.

Section 3: Termination of Membership

a. A member may be removed from the Council for failure to attend meetings of the Council. Individual members of the Council may recommend to the Chair the removal of a Council member if the member or alternate misses three consecutive meetings of the Council.

b. A council member who changes his or her organizational or professional affiliation must notify the Chair immediately and may be subject to removal in order to maintain balance among sectors of membership. A resigning member shall notify the Chairman in writing.

Section 4: Subcommittee Structure

a. The number, designation, mission, scope, and membership of Subcommittees at any time will be subject to a vote by a simple majority among the Council members.
b. Other groups formed by the Council under MACEJ auspices (e.g., focus groups, working groups, ad hoc task forces, etc.) may be formed upon vote by a simple majority of the Council members.

c. The Council shall make maximum use of the Subcommittees. Subcommittees may interact with individual Council members and other entities in transacting Subcommittee business, but formal charges to the Subcommittee and advice and recommendations from the Subcommittees must pass through the entire Council membership.

Section 5: Protocol Group

a. The Chair may establish a Protocol Group of the Council consisting of the Chair of the Council as well as the Chairs of each Subcommittee.

b. The Council Chair, in consultation with the Protocol Group, shall be responsible for overall planning for the Council and for coordinating activity with the Subcommittees. Overall planning for the Council refers only to logistical execution of activities authorized by the Council.

c. Minutes of the Protocol Group meetings shall be sent to the Council within 10 days of said meetings.

d. No official MACEJ actions will be undertaken by the Protocol Group.

V. MEETINGS

Section 1: Compliance with the Administrative Procedure Act (Open Meetings Law)

MACEJ will operate in accordance with all requirements of the Open Meetings Law. Such requirements include but are not limited to: publishing notice of meetings in the Maryland Register and local papers as appropriate, holding open meetings and taking and distributing minutes of meetings. Open meetings shall include reasonable opportunity for public comment.

Section 2: Meeting Scheduling

a. The Council shall meet at least once a month.

b. Subcommittees or other groups formed by the Council under MACEJ auspices shall meet as needed at the call of the Chair and the Subcommittee Chairs. Meetings of Subcommittees or other such groups may occur by teleconference or other means.

Section 3: Quorum and Voting

a. The presence of fifty-one percent of Council members or their proxies attending a Council meeting shall constitute a quorum for transaction of business and no vote shall be taken without a quorum.
b. A vote shall carry by a majority of the Council members present in a Quorum. Members must be present to vote or send an approved proxy (per Section 2 (a) (3) of IV).

c. Voting may take place by voice vote or by mail, FAX, written proxy, in writing, or by other means of communication.

VI. REPORTS AND RECOMMENDATIONS

Section 1: MACEJ Subcommittee Reports and Recommendations

a. A Subcommittee or other group formed by the Council under MACEJ auspices may bring a proposed recommendation forward to the Council for review and approval at any time.

b. A majority vote of the attending members of a Subcommittee or other such group shall be sufficient for forwarding a recommendation to the Council for review and approval. Voting may take place in a Subcommittee meeting by voice vote or by mail, FAX, written proxy, in writing, or by other means of communication. If a vote is taken at a meeting, a quorum must be present. A majority of the members must vote for a recommendation to forward a report to the Council.

c. Subcommittees or other such groups may issues their own draft reports, including draft recommendations, if approved by a majority of the group’s members as described in b. above. These reports shall be considered draft MACEJ Subcommittee reports until they have undergone complete Council review. Draft Subcommittee reports must be submitted through the Council.

Section 2: Council Reports and Recommendations

a. A report and/or recommendation shall be accepted for formal review and/or approval by the Council if it was approved by a majority vote of a Subcommittee or group formed by the Council under MACEJ auspices.

b. Each report or recommendation shall be distributed to all Council members for review. Where at all possible, a review period of a minimum of fifteen (15) calendar days will be designated.

c. Final Council approval or disapproval and transmittal to the Governor and General Assembly on a proposed recommendation shall be completed within a maximum of forty-five (45) calendar days from the date the proposed report or recommendation was sent to the full Council for review. If action involves voting, voting may take place by voice vote or by mail, FAX, written proxy, or in writing. Council members shall be notified of the results. This provision may be waived by the Council in circumstances where an immediate response is needed.

d. The Council Chair shall transmit all reports or recommendation considered by the MACEJ directly to the Governor and General Assembly. Minority views shall be transmitted, when they exist, with any report or recommendation of the Council.
Section 3: MACEJ Information Reports

All materials prepared by MACEJ, its Subcommittees, and other groups formed by the Council under MACEJ auspices are available to the public in accordance with the Maryland Public Information Act.

All reports will include the following statement: This report and recommendations have been written as a part of the activities of the Maryland Advisory Council on Environmental Justice (MACEJ), a public advisory committee providing extramural policy information and advice to the Governor and General Assembly. The Council is structured to provide balanced, expert assessment of matters related to the environmental justice program. This report has not been reviewed for approval by the Governor and General Assembly and, hence, the contents of this report and recommendations do not necessarily represent the views and policies of the Governor nor the General Assembly, nor does mention of trade names or commercial products constitute a recommendation for use.

VII. ADMINISTRATIVE SUPPORT

Administrative support for the Council, its Subcommittees and other groups formed under MACEJ auspices will be provided by the Maryland Department of the Environment. Additional staff support may be provided by other State agencies as needed by the Council.

VIII. AMENDMENTS TO BYLAWS

At any regular meeting, the Bylaws of the Council may be added to, amended, or repealed in whole or in part by vote of two-thirds of the entire membership of the Council. The vote may be taken by mail, FAX, and other methods of communication, provided that notice of intention to do so, together with a draft of the proposed changes, shall have been given to each member at least fifteen (15) days preceding the vote.
APPENDIX C

Executive Orders on Environmental Justice
(Federal & proposed state Executive orders)
PRESIDENTIAL EXECUTIVE ORDER NO. 12898

FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW-INCOME POPULATIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1-1. Implementation

1-101. Agency Responsibilities. To the greatest extend practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.

1-102. Creation of an Interagency Working Group on Environmental Justice. (a) Within 3 months of the date of this order, the Administrator of the Environmental Protection Agency ("Administrator") or the Administrator's designee shall convene an interagency Federal Working Group on Environmental Justice ("Working Group"). The Working Group shall comprise the heads of the following executive agencies and offices or their designees: (a) Department of Defense; (b) Department of Health and Human Services; (c) Department of Housing and Urban Development; (d) Department of Labor; (e) Department of Agriculture; (f) Department of Transportation; (g) Department of Justice; (h) Department of the Interior; (i) Department of Commerce; (j) Department of Energy; (k) Environmental Protection Agency; (l) Office of Management and Budget; (m) Office of Science and Technology Policy; (n) Office of the Deputy Assistant to the President for Environmental Policy; (o) Office of the Assistant to the President for Domestic Policy; (p) National Economic Council; (q) Council of Economic Advisers; and (r) such other Government officials as the President may designate. The Working Group shall report to the president through the Deputy Assistant to the President for Environmental Policy and the Assistant to the President for Domestic Policy.

(b) The Working Group shall: (1) provide guidance to Federal agencies on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(2) coordinate with, provide guidance to, and serve as a clearinghouse for, each Federal agency as it develops an environmental justice strategy as required by section 1-103 of this order, in order to ensure that the administration, interpretation and enforcement of programs, activities and policies are undertaken in a consistent manner;

(3) assist in coordinating research by, and stimulating cooperation among, the Environmental Protection Agency, the Department of Health and Human Services, the Department of Housing and Urban Development, and other agencies conducting research or other activities in accordance with section 3-3 of this order;
(4) assist in coordinating data collection, required by this order;

(5) examine existing data and studies on environmental justice;

(6) hold public meetings as required in section 5-502(d) of this order; and

(7) develop interagency model projects on environmental justice that evidence cooperation among Federal agencies.

1-103. Development of Agency Strategies. (a) Except as provided in section 6-605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)-(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement and/or rule makings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

(b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process.

(c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy.

(d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy.

(e) Within 12 months of the date of this order, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. During the 12 month period from the date of this order, each Federal agency, as part of its environmental justice strategy, shall identify several specific projects that can be promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy and a schedule for implementing those projects.

(f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy.

(g) Federal agencies shall provide additional periodic reports to the Working Group as requested by the Working Group.
1-104. Reports to the President. Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1-103(e) of this order.

Section 202. Federal Agency Responsibilities for Federal Programs

Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

Section 3-3. Research, Data Collection, and Analysis

3-301. Human Health and Environmental Research and Analysis. (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.

(b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.

(c) Federal agencies shall provide minority populations and low-income populations the opportunity to comment on the development and design of research strategies undertaken pursuant to this order.

3-302. Human Health and Environmental Data Collection and Analysis. To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(b) In connection with the development and implementation of agency strategies in section 1-103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law; and

(c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate
information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001-11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public, unless prohibited by law.

(d) In carrying out the responsibilities in this section, each Federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and tribal governments.

Section 4-4. Subsistence Consumption of Fish and Wildlife

4-401. Consumption Patterns. In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.

4-402. Guidance. Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife. Agencies shall consider such guidance in developing their policies and rules.

Section 5-5. Public Participation and Access to Information

(a) The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group.

(b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.

(c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the comments and recommendations discussed at the public meetings.

Section 6-6. General Provisions

6-601. Responsibility for Agency Implementation. The head of each Federal agency shall be responsible for
ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6-602. Executive Order No. 12250. This Executive order is intended to supplement but not supersede Executive Order No. 12250, which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6-603. Executive Order No. 12875. This Executive order is not intended to limit the effect or mandate of Executive Order No. 12875.

6-604. Scope. For purposes of this order, Federal agency means any agency on the Working group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6-605. Petitions for Exemptions. The head of a Federal agency may petition the President for an exemption from the requirements of this order on the grounds that all or some of the petitioning agency's programs or activities should not be subject to the requirements of this order.

6-606. Native American Programs. Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

6-607. Costs. Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

6-608. General. Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6-609. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or non-compliance of the United States, its agencies, its officers, or any other person with this order.

William J. Clinton
The White House
11 February 1994

(This copy of the Executive Order was retrieved from the Internet)
Executive Order (DRAFT)

WHEREAS, Environmental Justice is based on the principle that regardless of race, national origin or income, no segment of our population should bear disproportionately high and adverse effects of environmental pollution.

WHEREAS, The State of Maryland supports and is committed to the principle of environmental justice. Equal protection of all citizens of the State with regards to State actions in protecting the public health, welfare and the environment in a manner that fully complies with Title VI of the Civil Rights Act of 1964 is of paramount importance for the welfare of the State.

WHEREAS, Major statewide initiatives such as Smart Growth and the redevelopment of brownfields areas have been promoted in order to address environmental conditions of its communities and to provide new economic opportunities in these communities while preserving more pristine areas from sprawl and additional pollution.

WHEREAS, This Administration firmly believes that economic development and environmental protection are interdependent and equal treatment and opportunities must be afforded to all citizens of the State. The concepts of Smart Growth and Environmental Justice are intrinsically linked and are compatible. Both goals can be accomplished through increasing the involvement of communities affected by regulatory programs, policies, and permit actions in their development.

WHEREAS, House Bill 1350 was passed in 1997 which established the Maryland Advisory Council on Environmental Justice (MACEJ) to provide recommendations on environmental justice issues to the Governor and the General Assembly, as well as providing a public forum for discussion on environmental justice.
NOW, THEREFORE, I, PARRIS N. GLENDENING, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND THE LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING ORDER, EFFECTIVE IMMEDIATELY:

A. Establish a Statewide Commission on Environmental Justice and Sustainable Communities to provide guidance on environmental justice and related community issues.

B. To the greatest extent practicable and permitted by law, each state agency shall make achieving environmental justice part of its mission.

C. Each state agency shall submit a report to the Maryland Commission on Environmental Justice and Sustainable Communities which includes:

1) Identifying as appropriate, disproportionately high and adverse environmental and public health impacts of its programs, policies and activities on minority and low income populations within the State;

2) Potential environmental justice impacts on Smart Growth, urban redevelopment and brownfields; and

3) And, to the extend possible provide recommendations addressing the problems raised, including possible, new models for public participation in the decision making process.

Given Under My Hand and the Great Seal of the State of Maryland in the City of Annapolis, this _____ day of _____ 1999.

Parris N. Glendening, Governor
APPENDIX D

Principles of Environmental Justice
(First People of Color Summit in 1991)
ADDITIONAL MACEJ CONSIDERATIONS IN DEVELOPING MARYLAND'S STRATEGY

Everybody has a right to clean water and clean air, and nobody has a right to degrade and destroy the environment. It's not about little critters, which few people see. It should be about healthy communities where kids can play, where they can live and raise their families knowing that everybody's doing their part in using and disposing of toxic chemicals properly.

Environmental justice has been defined as the pursuit of equal justice and equal protection under the law for all environmental statutes and regulations without discrimination based on race, ethnicity, and/or socioeconomic status. This concept applies to governmental actions at all levels -- local, state and federal -- as well as private industry activities. There are actually three categories of environmental equity issues. Providing environmental justice goes beyond the stated definition and includes a guarantee of equal access to relief and meaningful community participation with government and industry decision-makers.

The following list of principles adopted at the People of Color Environmental Leadership Summit on October 27, 1991, in Washington, D.C., were also considered.

1. Environmental justice affirms the sacredness of Mother Earth, ecological unity and the interdependence of all species, and the right to be free from ecological destruction.

2. Environmental justice demands that public policy be based on mutual respect and justice for all peoples, free from any form of discrimination or bias.
3. Environmental justice mandates the right to ethical, balanced and responsible uses of land and renewable resources in the interest of a sustainable planet for humans and other living things.

4. Environmental justice calls for universal protection from nuclear testing, extraction, production and disposal of toxic/hazardous wastes and poisons and nuclear testing that threaten the fundamental right to clean air, land, water, and food.

5. Environmental justice affirms the fundamental right to political, economic, cultural and environmental self-determination of all peoples.

6. Environmental justice demands the cessation of the production of all toxins, hazardous wastes, and radioactive materials, and that all past and current producers be held strictly accountable to the people for detoxification and the containment at the point of production.

7. Environmental justice demands the right to participate as equal partners at every level of decision-making including needs assessment, planning, implementation, enforcement and evaluation.

8. Environmental justice affirms the right of all workers to a safe and healthy work environment, without being forced to choose between an unsafe livelihood and unemployment. It also affirms the right of those who work at home to be free from environmental hazards.

9. Environmental justice protects the right of victims of environmental injustice to receive full compensation and reparations for damages as well as quality health care.


12. Environmental justice affirms the need for urban and rural ecological policies to clean up and rebuild our cities and rural areas in balance with nature, honoring the cultural integrity of all our communities, and providing fair access for all to the full range of resources.

13. Environmental justice calls for the strict enforcement of principles of informed consent, and a halt to the testing of experimental reproductive and medical procedures and vaccinations on people of color.

14. Environmental justice opposes the destructive operations of multi-national corporations.

15. Environmental justice opposes military occupation, repression and exploitation of lands, peoples and cultures, and other life forms.

16. Environmental justice calls for the education of present and future generations which emphasizes social and environmental issues, based on our experience and an appreciation of our diverse cultural perspectives.

17. Environmental justice requires that we, as individuals, make personal and consumer choices to consume as little of Mother Earth's resources and to produce as little waste-
as possible, and make the conscious decision to challenge and reprioritize our lifestyles to insure the health of the natural world for present and future generations.
APPENDIX E

Proposed Environmental Justice Protocols
and Methodologies
ENVIRONMENTAL JUSTICE PROTOCOL
Proposed by Public Interest Law Center of Philadelphia
October 1, 1998

INTRODUCTION

Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d (Section 601) prohibits recipients of federal financial assistance from discriminating against persons because of race, color or national origin. Thus, state agencies such as the Pennsylvania Department of Environmental Protection (DEP) are subject to the requirements of Title VI.

Title VI also authorizes federal agencies, such as the Environmental Protection Agency (EPA) to promulgate regulations designed to prevent such discrimination. 42 U.S.C. §2000 d-1 (Section 602).

Pursuant to Section 602, the EPA in 1984 promulgated Title VI regulations. 40 CFR §7.01 et seq. Unfortunately, they were only procedural in nature and did not include any guidance for determining whether particular actions of a recipient of EPA funds constituted violations of the Civil Rights law.

Environmental injustice has been recognized as a national problem for more than 20 years but it was not until February, 1994 that the President issued an Environmental Justice Executive Order requiring the EPA and other federal government agencies to develop programs to overcome environmental injustice in minority and low income communities. And EPA required another four (4) years, until February, 1998, to publish its “Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits” (Interim Guidance).

***

In 1998 the EPA has organized an Implementation Advisory Committee (IAC) representing stake holders from across the country to make recommendations for improving the Interim Guidance. The Public Interest Law Center of Philadelphia (Law Center) presented comments on the Interim Guidance to the IAC at its first meeting in May 18, 1998 in Arlington, VA. The Law Center noted that the EPA’s Interim Guidance was very complex and included many factors open to conflicting opinion for the Guidance to serve as a useful tool for advancing
environmental justice. The EPA’s investigation of the proposed Shintech facility in Louisiana illuminates their complexity.

In an attempt to provide constructive assistance to the IAC, the Law Center presented a substitute Protocol for IAC’s consideration. Since the IAC’s meeting of May 18th, the Law Center has presented its substitute Protocol at numerous meetings including meetings of the Pennsylvania Department of Environmental Protection (DEP) and the Philadelphia City Solicitors Office.

In contrast to the EPA’s *Interim Guidance* which is based on complex disparate cumulative impact analysis, the Law Center’s substitute Protocol is based on a comparative public health analysis utilizing official state public health data.

It is well recognized that residents of minority and low-income communities suffer from substandard public health. This was recognized in the President’s Executive Order of February 1994. The Law Center’s substitute Protocol is designed to protect all substandard communities from polluting facilities thereby fulfilling the purposes of environmental health protection law and civil rights law.

The substitute Protocol requires the pollution control permitting agency to promulgate regulations that would make civil rights protection an intrinsic part of the permit application review process. Such a requirement would greatly reduce the number of civil rights complaints to the EPA after the issuance of pollution control permits.

And the substitute Protocol empowers the local community to override the permit prohibition through the use of a local referendum financed by the permit applicant, affording local residents control of community development.

Over the past few months the Law Center has presented its substitute Protocol to numerous audiences and has received some very positive feedback. The substitute protocol (Environmental Justice Proposal) attached reflects the constructive comments presented to the Law Center.
ENVIRONMENTAL JUSTICE PROTOCOL
Public Interest Law Center of Philadelphia

Draft 2/8/99

INTRODUCTION

The Public Interest Law Center of Philadelphia (Law Center) herein presents a Draft of an Environmental Justice Protocol for use by the EPA and by State environmental protection agencies to determine whether proposed permit applications are in compliance with the Civil Rights Act of 1964, Title VI and with the goals of environmental justice.

This is a Draft. It is recognized that adjustments will be needed in response to comments and suggestions, all of which are welcome.

***

1. No State or local environmental protection agency which receives federal financial assistance shall grant a pollution control permit to construct or operate a new facility or to enlarge an existing facility in any Affected area where the Public Health of the residents is determined to be Substandard; except that such prohibition may be overridden by a referendum of the residents of the Affected area (see paragraph 7).

2. The Affected area of a proposed new facility or of a proposed enlargement of an existing facility shall be the area within a circle of radius _________(Distance) except that the radius shall be increased so that the Affected area contains a minimum of _______ residents. The center of the circle shall be the center of the property owned or leased by the permit applicant for the operation of the proposed facility.
3. The Public Health of residents of a geographical area shall be determined from the records of state or local health departments for the five (5) year period preceding the time of the permit application and the most recent records published by the U.S. Census Bureau.

4. The following factors shall be used to determine the Public Health of residents of any geographical area:
   a. Age adjusted mortality rates per 100,000 population;
   b. Age adjusted cancer mortality rates per 100,000 population
   c. Infant mortality rates per 1000 live births
   d. Low Baby Birth Weight Rate (under 2500 grams) per 1000 live births

5. Standard Public Health shall be determined from the health factors for the population of the entire state or county in which the Affected area exists.

6. The Affected area shall be deemed to have Substandard Public Health when there is a deviation of at least (___ %) in (each, all) of the health factors in the Affected area as compared to the Standard Public Health.

7. Residents of an Affected area determined to be a Substandard Public Health area shall have the right to override a permit prohibition by a referendum, paid for by the permit applicant.

***
Stressed Communities: A New Model of Environmental Assessment

By Reginald Harris

ECEJ

Background: Traditionally, the depletion of flora and fauna, and the degradation of natural systems (rivers, streams, etc.) are seen as signs that ecosystems are being stressed. These indicators are quite useful in determining if these ecosystems are being adversely impacted or “stressed”. Actions are generally taken to protect stressed ecosystems as a result. Human ecosystems, communities, should be treated in the same manner. When communities show signs of stress, actions should be taken to see that no additional stresses are added, and that measures are adopted to see that the community (ecosystem) is not overburdened.

The Stressed Communities concept applies an ecosystem-like approach to the assessment of the human environment. Human health outcomes data are used as measures of the community’s overall burden as compared to state, local, and national human health benchmarks.

We need to be able to answer the much asked question of how much burden borne by a given community is too much. We also need to have some benchmarks by which to judge our at-risk communities. The Stressed Communities Concept allows us to use available human health outcomes data as an instrument by which such assessment may be made. There is a critical need for us to be able to identify those communities that are already stressed or overburdened to a degree of significant concern. We need to be able to determine when those burdens borne by these at-risk communities have become overwhelming stresses. In other words, we need to know when our communities have had enough stress placed upon them and can take no more. Once we see that communities are overburdened or stressed as compared to national, regional and local benchmarks; we must be prepared to take appropriate actions to assure the protection of the community. These actions may require the development of a comprehensive approach utilizing a number of diverse stakeholders.

Use and Application:

The assessment methodology used for the Stressed Communities Model requires the accumulation of a number of types of human health outcomes data, all of which is available through healthcare agencies for use as benchmarks.

Key Uses:

- Priority setting
- Decision making (siting, permitting, targeting enforcement and compliance activities)
- Identifying issues of concern
- Setting course of action
Needs:

- Assessment of availability of health outcomes data
- Collection of data
  Age-adjusted Cancer Incidence Rates
  Age-adjusted Cancer Mortality Rates
  Disease Incidence rates
  Disease Mortality Rates
  Infant Mortality Rates
  Low infant birth weight data
  Other relevant data (Childhood Lead Poisoning)

Recommended Actions:

- Adoption of the Stressed Communities Concept by the Regional Office
- Formation of partnerships with other federal, state and local agencies with public health functions in order to obtain appropriate support to address concerns
- Collection and analysis of health outcomes data
- Survey of data gaps
- Establish appropriate linkages with public health and other appropriate agencies
DISPARATE IMPACT TEST

While EPA and others have various methods under consideration to evaluate disparate impact, MACEJ would like to suggest the use of disparate impact tests to complement the various methodologies employed in assessing disparate impact. These impact tests will involve undertaking qualitative research by using various communities as samples to assess disparate impact.

The determination of sample size for any type of research study is one of the most critical factors in considering any environmental research. The critical nature of sampling is even further complicated by the fact that some forms of data collection lack scientific purity. This is the case when engaged in "observational" research - people observing other people and recording their findings. This is particularly true with the concept of environmental justice. It is thus important to ensure that data collected is accurate, reliable and consistent.

Factors to be used in determining sample:

- A modeling program, for example Sample Estimator* should allow for the use of nominal (yes/no) or ordinal (1 to 5 Likert scale) data types. Since the crucial compliance measures are based on nominal data, that model will be used in determining sample size for this type of matched-pair study.

- Comparative aggregate data for minority and non-minority communities [or impacted and non-impacted communities] should be derived EJ studies conducted within communities over the last controlled time frame. Responses to a core set of criteria/indicators and questions should be averaged (un-weighted) for each community. EJ study should then aggregate the data, and review the communities' data. Data should indicate percentage of cases examined where there exists disparate between minority and non-minority communities. Data could also reveal variance in disparate treatment, pollution abatement measures, issuance of permits, etc., This variance, to be very meaningful, should not exceed percentage points higher than percentage of disparate between impacted and non-impacted communities.

- If the confidence interval for determining sample sizes is set at ninety-five percent (95%), then the model produces an estimate of the appropriate sample based on the assumption that ninety-five out of one hundred cases will reveal disparate treatment in the x percent (%) to y percent (%) range of the total population.

In this model there are two variables that will have an impact on the recommended community. The first is the population or universe. This is typically the number of individuals to be evaluated. The second is the variance in the anticipated rate of disparate treatment. While x percent is based on historical cases with current and past communities, a smaller percentage of larger variance used to adjust the sample size or reduce the variability of the confidence interval.
Many different research organizations typically apply many different tests of significance to community tabulations. For the purposes of our EJ studies, we will consider data tabulation models. One applies to the averages of scales and other continuous variables such as community age, income, poverty levels, and race, etc. This test is commonly referred to as the t-test. Another test used is called the significance test of proportions is used for categorical responses such as a "yes" or "no" response. These two types of tests could form the basis for determining disparate treatment in impacted communities once an agreed set of criteria/indicators are decided upon.

The t-test can be used when the variable under consideration can be measured on a scale such as typical Likert scale ratings. This is the case for rating scales, which should show an average. In order to illustrate the meaning of the test, consider the following example. Respondents are asked to rate the quality of the air within their community on a scale of 1 to 5 where 1 is poor and 5 is excellent. Since this is a scale, it makes sense to add up all responses and divide by the number of responses to get the average, or mean. Generally, research is done to answer questions that are about groups of respondents. In the example, we might want to ask if minorities or non-minorities are more satisfied with the air quality or are they more or less at the same level of satisfaction.

Technically, the t-test is testing the (null) hypothesis that the averages of the two groups of respondents are equal. In this case the two groups represented are assumed to be equal. Any variation in the groups' averages can come from two sources. One source is the variability due to sampling. Whenever survey research is undertaken, a sample is used since doing a census is too costly or not possible. Sampling can introduce variation between columns because we may happen to survey more impacted communities than non-impacted communities even though the true population difference is small. The second source of variation to consider is the true differences between the groups. The question is, are the groups truly different, or are the differences explained by sampling variation. The t-test will determine if the difference between the two groups is statistically significant or not.

Significance Test of Proportions:
Generally, the methodology behind the t-test applies to the case of categorical data as well. The difference is one of data type. Since a categorical variable cannot be averaged, the t-test is not applicable. In this case, we use a significance test of proportions. The statistic generated has the same properties as the t-test, but is computed from the percentages of respondents answering a certain way, not from an average. This is the principle difference of the significance test of proportions from the t-test. It appears on the database tabulations in the same manner as the t-test, but since it is dealing with categorical data, it is mathematically distinct. It is important to note this since an application of continuous variable testing techniques to categorical responses would be inappropriate. The test used is non-parametric in nature when it comes to categorical data.

The t-test and significance test of proportions are used to test whether observed differences are due to sampling variation or to true differences. EJ studies could be conducted at statistical tests at a 95% confidence interval, the industry standard. This
confidence interval is a measure of the reliability of the test. It is related to sampling variation in this manner; if an asterisk shows up indicating a statistically significant difference between two columns, we can be 95% confident the difference is due to true differences between the columns. Notice that 5% of the time we could be looking at differences caused by sampling error or chance.

In summary, future EJ. studies could use these two tests to determine disparate impact. The t-test is used when data is continuous or scaled in nature and it makes sense to average them. When data is categorical, the significance test of proportions is used. In each case, the columns of tabulation are being tested against each other. The assumption is that the columns are the same unless denoted with an asterisk and a number showing the column against which that column is significant. This test is carried out at the 95% confidence interval unless otherwise noted. This method of reporting makes it easy to find differences when there is a lot of data to cover and provides acceptable reliability for the observation of univariate differences.

See the examples of Community Health and Quality of Life Indicators Presented in the Community Health Handbook (NCL 1993) that could be used within the analysis of disparate impact within a community (see EHCR subcommittee recommendations, pg. 22). The recommendations include, adult and infant mortality rates, low birth weights, cancer stage at diagnosis, poverty level, race, unemployment rate, new dwellings, vacant homes, availability of child care and transit opportunities, crime statistics, admissions, air quality, health insurance, incidents of respiratory emergency admissions or occurrences, dumps, trash, etc.
APPENDIX F:

REPORTS AND BRIEFS BY MARYLAND CITIZENS TO CEJSC COMMISSIONERS ON DECEMBER 12, 2001
LANDFILLS & RUBBLE
FILLS
Testimony Given before the Governor’s Commission on Environmental Justice and Sustainable Communities

Ladies and gentlemen of the Commission, my name is Clark S. Aist and I reside at 11701 Van Brady Road, Upper Marlboro, MD 20772. I come before you today as President of the Maryland Community Preservation Coalition, a network of some 70 community groups across the State which for nearly a decade has worked with problems associated with rubble landfills. In addition to advocacy activities within our local communities, Coalition representatives have served on numerous county and state-wide work groups, including the MDE Liner Work Group (1994) and the Governor’s Task Force on Solid Waste Management (1998). With me today are members of the Coalition from Anne Arundel County, Queen Anne’s County and Harford County. I am from Prince George’s County. We deeply appreciate the opportunity you have afforded us to share our views and concerns about rubble landfills in relation to environmental justice.

Based on the collective experiences of communities across the State, we would share with you a carefully considered assessment: The private rubble landfill industry in many, though not all, instances, has imposed highly detrimental conditions disproportionately on minority communities in the State of Maryland.

Already this morning you have hear the poignant problems of residents in communities named Shipley and Carroll in Baltimore City, and Wilsontown and Woodwardville in Anne Arundel County. I can assure you there are scores of communities throughout Maryland who could share similar stories. They experience either the reality of the prospect of decades of excessive noise, odors, dust, rodents, traffic volume, un-natural viewsheds, loss of property values, environmental threats and a depressing industrialization of their neighborhoods. These are the common consequences of rubble landfills.

I would like to amplify our assessment above in two ways: (1) a brief statement of background factors and history, and (2) a listing 12 rubble landfills on which we have data—closed, active and proposed—and the justice issues they raise.

Background Factors and History

We do not believe the justice problem with rubble landfills is caused by racism on the part of rubble landfill operators. We do, however, believe that it is related to insufficiently controlled and monitored market forces that drive the private rubble landfill industry in ways that result in disproportionate harm to minority communities.

Some 40 years ago when the solid waste stream was becoming more sharply differentiated, it was assumed that rubble (primarily debris left over from construction and demolition projects) was relatively benign and could be disposed of in a special class of landfill under private operation and ownership. This would save space in municipal solid waste landfills which were then becoming outfitted with costly liners and leachate collection systems. Beginning in the mid to late 1970’s, we see the emergence across the State of a series of privately owned and operated rubblefills. As the industry developed, market forces began to shape the enterprise in predictable directions.

1. The first generation of rubblefills met the need of rapidly developing suburban communities and through tipping fees became very lucrative enterprises. Because of high profit margins, they became a particularly attractive use for land that had already been
mined for sand and gravel.

2. The high profits realized quickly attracted the development of more rubblefills, often in close proximity to each other, especially along the US 95-301 corridors in Harford, Baltimore, Queen Anne’s, Anne Arundel and Prince George’s Counties. This proliferation found strong support among developers who wanted “short haul” landfill sites with low tipping fees in which to dispose of their construction and demolition debris. Because they had never experienced a rubble landfill before, nearby residents offered little opposition.

3. As two or more private rubble landfill sites were established per county along the five-county corridor mentioned above during the late 1980’s, tipping fees became lower because of competition. But the loss of revenue was more than compensated for by the practice of “rapid filling.” Lower tipping fees were found to have a highly beneficial consequence to rubblefill operators by significantly expanding the “region of profitable export.” As states north of Maryland begin to construct liners for their rubble fills and limit the development of new ones, private rubblefills in Maryland counties became magnets for waste not only from adjoining counties, but from many northeastern states. It became cheaper to haul to Maryland’s “low tipping fee” rubblefills via the US 95-301 corridor that to dispose of rubble waste locally. Maryland rapidly became a net importer of rubble waste from other jurisdictions.

4. Private operators in the early 1990’s saw few roadblocks to their low tipping fee, rapid fill, high volume, non-local import policies. They had encountered little opposition to the first generation of rubble landfills, and there was clearly an abundance of spent gravel mines at favorable cost which they began to acquire to expand their industry. As a result of these policies, communities began to experience the following consequences: (a) vastly increased volumes of vehicular traffic to private rubblefills, often as many as 600-800 trips per day along ill-suited narrow, winding access roads; (b) a dramatic increase in applications for new rubblefills or expansions of existing ones (some of which, like Gravel Hill in Harford County are still in litigation); (c) very low rates of rubble recycling because it was cheaper to bury; and (d) the importation of large volumes of non-local and out-of-state waste. In Prince George’s County, for example, we have estimated that the amount of non-local and out-of-state rubble that presently occupies the county’s already filled rubble capacity to be between 70-75%.

5. These conditions in the early 1990’s aroused spontaneous opposition among local citizens and led to the formation of the Maryland Community Preservation Coalition. As rubblefill operators rapidly depleted their existing capacities in the quest for high profits, they turned to the semi-rural and rural areas of their counties for more space. Many of the existing rubblefills as well as the new sites they proposed were in substantially African-American communities. Even more offensive, at least 5 have been proposed on sites in immediate proximity to minority churches and ancient grave sites that represent treasured historical legacies. A bedrock conviction began to develop among citizens across the State: It is fundamentally unfair in view of all of the associated negative conditions to ask citizens of Maryland communities to tolerate the proliferation of rubble landfills to be filled substantially with non-local waste in order to create large profits for operators and low tipping fees for developers.
6. Two developments in more recent years have added new contours to the rubblefill controversy. On the negative side, the Carbone decision of 1994 declared solid waste, including rubble, to be a commodity of interstate commerce. Therefore the flow of out-of-state rubble to private landfills could not be restricted or differentially treated. More positively, however, the MDE liner regulation of 1997 had the effect of significantly reducing the excess rubblefill capacity in Maryland as a number of fills have chosen to close rather than line. In addition, the cost of the liners (estimated at $250,000 per acre) has necessitated a substantial increase in tipping fees. This has greatly reduced the region of profitable export and virtually halted the transport of rubble from out-of-state sources. It has also substantially increased the interest in and profitability of rubble recycling.

7. At the same time, a fierce competition for the regional markets in the Baltimore-Washington megalopolis is now in progress. Although there have been attempts to expand rubble capacity in each of the five counties along the US 95-301 corridors, there has been a concerted effort to make Prince George’s County the regional hub for Maryland’s private rubble industry. With the highest minority population of any Maryland county (70%), Prince George’s County received four proposals for either new or expansion rubble landfill sites over the past two years for a combined footprint area of 410—more than all of Maryland’s current combined total. Is it just marketplace coincidence that this is occurring in Maryland’s largest minority County—Prince George’s? This was the primary motivation behind the rubble landfill limitation law for Prince George’s County passed by the 2001 General Assembly. (Please refer to the report “Environmental Equity and the Spatial Distribution of Solid Waste Facilities in Prince George County: An Assessment of Special Exception-4337 Using Geographic Information Systems” by Dr. Matthew A. Wilson of the University of Maryland.)

7. Citizens activism over the past decade has led many counties to seek regulatory means to control or regulate rubble landfill proliferation and the high levels of non-local waste disposal so that only the fewest number of communities will need to bear the burden of rubble landfill operations. With varying success and incessant challenge from industry proponents, three primary methods have been employed: (1) de-privatizing rubble disposal by constructing county-owned fills or dedicated cells for rubble at a county’s MSW landfill (the approach of choice among most smaller counties of the State); (2) amendment of county zoning ordinances to include more stringent siting criteria for rubblefills (the approach of Queen Anne’s and Harford Counties); and (3) limiting the zoning body’s authority to approve rubble landfill capacity beyond defined local needs (Prince George’s County).

Data on 12 Rubble Landfills

In spite of developments that seems to be retarding the wholesale proliferation of private rubble landfills, many communities are still fighting to keep rubble disposal capacity within dimensions that serve local rather than regional needs. The chart distributed at the December 12 hearing presents data from 12 closed, active and proposed private rubble landfill sites and the justice issues they raise. Five of the 12 are within 1.5 miles or closer of historic minority sites, and 10 of the 12 are surrounded by communities with a majority of minority residents within a 1.5
to a 2 mile radius. These data appear to affirm our central assessment: The private rubble landfill industry in many, though not all, instances, has imposed highly detrimental conditions disproportionately on minority communities in the State of Maryland.

Recommendations to the Commission

1. The most important thing that can be done to remove the scourge of excessive rubble landfills from minority communities is to reduce the rubble waste stream through source reduction and recycling. State initiatives are needed to expand existing markets for recycled products and to develop new markets. Long term research grants to Maryland’s universities for the development of new technologies for rubble reuse and disposal need to be made. State funds are also needed to provide counties with funds for initiatives and rewards for achieving rubble reduction goals. These and similar measures would assure that fewer communities—minority and otherwise—will need to sit the current version of rubble landfills.

2. The General Assembly should consider laws that would limit and control the excessive use of rubble landfills as it did in 2001 in the case of Prince George’s County.

3. At an early stage in the permitting process, MDE should require that a competent analysis be done of the ethnic-racial-economic status and composition of a community in which an application to construct a rubble landfill has been received. This analysis could be performed and evaluated at the county level, but upon review could be cause for denial at the state level as well.

In conclusion, the Maryland Community Preservation Coalition deeply appreciates this opportunity to express its views and recommendations to the Commission.
My name is Lisa Cornwell, I live at 969 Patuxent Road in Woodwardville Maryland.

I come hear before you today to express my concerns and objection to the proposed Chesapeake Terrace Rubble Landfill in Odenton Maryland. This landfill will be the 6th landfill within a 4 to 5 mile radius in the western region of Anne Arundel County and will be the largest landfill of any kind in the state of Maryland. With Anne Arundel County having the highest rates of cancers in the country, I ask if it could be possible that any of these health problems could be linked to our water supplies and the possible contamination from the vast amount of landfills in our county.

It would not be possible to relay or read to you all of the historical information about the community in which I live. I have brought with me today copies of as much pertinent information regarding the background and history of the towns known as Wilsontown and Woodwardville. Both of these small towns are within a few feet of the proposed landfill and will be greatly and negatively impacted. I trust that in good faith you will each take the time to review this information to further your knowledge of the injustice proposed to the communities of Wilsontown and Woodwardville.

The proposed Chesapeake Terrace Rubble Landfill will be within a few feet and in most cases a few inches from residential homes, predominantly in Wilsontown.

Wilsontown and Woodwardville only a few short miles apart and are both rich with history for everyone including the American Indians, the Quakers, and the freed slaves. All of these groups chose the area for its position between 2 rivers. The Patuxent & The Little Patuxent Rivers, which where named by the American Indians of the area. The endless supply of water, field stone, and the vast amount of lumber including Ash, White Oak, and Hickory trees where some of the reasons for settling here. Also, the bountiful amounts of fish and wildlife, much of which still remain today. Our small area is filled with so much natural untouched beauty from the wetlands with its wildlife, plants, and trees to its historic churches and homes.

Historically our area in its entirety is known as the Great Forks of the Patuxent. Many families have lived in the forks for five and six generations.

Archaeologists have found the remains of several Native American campsites in this area of the Patuxent rivers that date from 500 A.D. until 1400 A.D. American Indian artifacts have been found in and around Wilsontown and Woodwardville. Many of my neighbors have commented on the artifacts that they have found while digging in their gardens over the years.

The Quakers settled in the area and built the Indian Spring Meeting House in approximately 1792. The meeting house would go on to become part of the underground railroad. Sometime between 1869 and 1890, the Quakers donated the building and the land to the newly freed slaves that had settled there.
The church would go on to become St. John’s A.M.E. Zion Church. The church has remained the heart of the small town ever since. Descendants of the freed slaves have remained in Wilsontown for many generations. The community remains 90% African American. Recently the St. John’s A.M.E. Zion Church was placed on the Anne Arundel County Inventory of Historic Places. A quote was made by County historian Donna Ware to the Washington Post in November 1997 “Historically speaking... it’s virtually a secret. No one knows it’s back there”. She also is quoted as stating that the Forks is a “distinctly different world from a distinctly different time”.

Within the Great Forks of the Patuxent area lived many prominent Quaker families who were descendants of the founders of Anne Arundel County. The community was predominately agricultural and farming. The town of Woodwardville was founded in 1875. Between 1881 and 1882 Trinity Methodist Episcopal Church was founded and built. The church still stands today and has weekly Sunday services. The town of Woodwardville remains also. A quiet and cherished community by those fortunate to live here. I myself live in a home in Woodwardville built in 1891 by the Anderson family (Quakers). My husband and I as well as the previous owners have taken great pride in caring for and restoring our home. Most of the historic homes in our community have either been restored or are in the process of restoration.

All of the homes throughout the Forks of the Patuxent, including Wilsontown and Woodwardville have private wells as the source of water. One of our greatest concerns is for our water sources and the possibilities of contamination. We are surrounded by natural wetlands, underground aquifers, and the Patuxent rivers.

On December 3, 2001, most of the residents of the Forks of the Patuxent including myself, Odenton, Gambrills, and Crofton (approximately 250 people) attended a meeting hosted by the Maryland Department of the Environment. My fellow community members and myself were overwhelmingly distressed at the lack of the ability of M.D.E. and Mr. Dexter to directly answer the questions posed to him regarding the effects of this landfill on our environment. We all heard many untruthful answers given. More than once the room was filled with laughter at some of the answers given to very important questions. At times no answer at all was given, just a redirection of sorts that left you more confused than before you asked the question. We heard much inaccurate information given also. M.D.E. and Mr. Dexter’s ability to give the public the health, environmental, and safety information when directly asked was lacking and insufficient. Community members throughout Odenton, Gambrills, and Crofton were given no sense of security that the Maryland Dept. of the Environment had taken their concerns into consideration. To say that our community was misinformed, uninformed, and mislead would be an understatement. Please realize that these statements are not exclusive to me. Most of the attendees that I spoke with that evening or since have been of the same observations and opinions.

It is felt by and the opinion of the entire Forks of the Patuxent Community that the land owner and developer Mr. Halle thinks that he can put a landfill in a small area such as ours and no one will care. Is this true?
When Mr. Dexter was asked on Dec. 3, 2001 the question of "are there health risks associated with this type of landfill project"? His answer was a clear and simple "YES". In my opinion it was the most clear and accurate answer of the entire evening. I respect Mr. Dexter and his position with M.D.E. I simply do not believe that the Informational Hearing was a success in answering the public's very important questions about their environmental, health, or safety concerns.

The point I would like to make to you today is that we have 2 small towns rich in history, culture, and heritage. Wilsontown has an amazing history and heritage of taking part in freeing slaves and of the many generations of African Americans that have remained in this beautiful and out-of-the-way place we call home. The residents of Wilsontown and Woodwardville consider ourselves fortunate to live in such a treasured, untouched, and undeveloped area. We all know that these types of places are rapidly becoming fewer and fewer. If M.D.E were to permit this landfill it will irreversibly change our environment and our quality of life forever.

I have faith that my community and I can make a difference in seeing that Wilsontown and Woodwardville have a positive future. I also have faith that this commission and the state of Maryland will review the information placed before you today by myself and others including the additional information I have submitted to you. I ask on behalf of a beautiful and invaluable place called the Forks of the Patuxent that you please assist us in preventing this destruction of our environment, our way of life, our health, and safety.

Thank you for your time and for allowing me to speak before you today.
December 12, 2001

Commission on Environmental Justice & Sustainable Communities
Scot T. Spencer, Chair
c/o Office of the Secretary
Department of the Environment
2500 Broening Highway
Baltimore, MD 21224

Re: 2902 W. Baltimore Street, Baltimore, MD 21229
(Potts & Callahan landfill adjacent to the Gwynns Falls River)

Dear Mr. Spencer:

I am writing on behalf of my clients, the Ad Hoc Committee to Stop the Dump at the Gwynns Falls. Residents and community members of the Ad Hoc Committee fear further negative impact by the land filling activity at 2902 W. Baltimore Street. The Ad Hoc Committee consists of Mr. Otis E. Lee, Sr. as Chairman, Carroll Improvement Association, Inc. (the community association that encompasses this site), Southwestern Improvement Association, Inc., Mill Hill Improvement Association, Inc., Boyd Booth Concerned Citizens, Inc., Franklintown McHenry Frederick Community Association, Franklin Square Community Association, Operation Reach-Out South West (OROSW), the Action Group of Shipley Hill, and Carrollton Ridge Community Association, Inc., (neighboring community associations), and the Friends of Gwynns Falls/Leakin Park (an organization concerned with the Gwynns Falls/Leakin Park and Gwynns Falls River which are directly impacted by this operation).

The land at issue is a parcel of real property consisting of approximately 28 acres in an M-1-1 zoning district bordering an R-6 district. Potts & Callahan purchased this parcel on July 8, 1997. In 1997, the City of Baltimore issued permit # 87708 to fill 4.5 acres of an old cement quarry along the Gwynns Falls River with "clean fill." We believe this permit was issued in error without any public hearing or zoning approval. This decision by the City set off a chain of events that now appear to include the Maryland Department of the Environment. These events may lead to allowing Potts & Callahan to both escape liability for what we perceive to be past violations and to exponentially increase what we believe to be violations to the Baltimore City Zoning Code, COMAR, and the health and safety of the community and Gwynns Falls Watershed. We urge both the State and the City to disallow any further landfill activity at this site for three (3) main reasons.

1 COMAR 26.04.07.04C(3) (clean fill consists of "Filling operations which consist solely of the importation of clean earthen fill containing rock, concrete, non-refractory brick, and asphalt created as a result of construction excavation activities, mining, or regrading projects . . . ").
activity and fines.

Potts & Callahan submitted a second permit application on March 30, 1998, number 97191, to do mass grading and stabilization of the remainder of the site. It is estimated that this mass grading and stabilization will involve approximately 150 trucks entering and 150 trucks exiting this site causing 300 trucks per day passing through these communities for 10-20 years. This activity is likely to cause mass destruction and destabilization to the Gwynns Falls and the surrounding communities. Eventually, in March 2000, the City informed Potts & Callahan that “it would neither issue the Expanded City Permit nor reissue the City Permit which had expired on 12/31/1999.” Potts & Callahan then sued the City. In October 2000, the City was successful in having the case dismissed in the Circuit Court, but the decision is being appealed to the Court of Special Appeals.

Third, even while this lawsuit is pending, the Maryland Department of the Environment seems to be supporting Potts & Callahan’s attempt at redefining the nature of the site by trying to sell it as a public service under the Surface Mining Reclamation Program. The apparent support given to this project by the Department of the Environment is not justifiable. Should this project be approved as a “Surface Mine Reclamation Project” or a “clean-fill” site, the fact remains, a dump is a dump and the community will not stand for it. The community will hold both the City and the State responsible for allowing this operation to go forward. The communities do not see this as a public service. They see it as a threat to the welfare of their communities and the children who will be dodging these trucks for two decades. Furthermore, “land reclamation” is also not allowed in this M-I zoning district.

The communities will continue to oppose any form of a land fill operation, including a Surface Mine Reclamation Project. Based on past experience outlined above, they can not trust Potts & Callahan to perform any activity on this property in a legal manner, and the communities can not trust the City or the State to hold Potts & Callahan accountable for any illegal activity they allow or perform on the property.

Mr. Otis Lee, Sr., looks forward to presenting his story to you today. If you would like any additional information or to discuss this further, please contact me at 410-366-0922 ext. 229.

Sincerely,

Kristine J. Dunkerton, Esq.

Enclosures

---

6 Department of Housing and Community Development Construction and Buildings Inspection Division, Permit Application Number 97191.

7 Plaintiff’s Brief, p. 3, Potts & Callahan, Inc. v. Mayor & City Council of Baltimore City, No. 24-C-00-001759 (filed April 11, 2000), appeal filed, No. 2000 Term 2087.

Shipley Hill has deep concerns about the issue of the landfill at Gwynns Falls. Potts and Callahan would have to be added to the list of environmental polluters already established in this immediate area. Let us review the list of companies that make for unsafe and hazardous conditions in our community:

Lenmar Chemical company, located at Calverton Rd. near Frederick Ave.; Lasting Paint Company, located at Franklintown Rd. near Pratt St.; Manager's Slaughter House, located at 126 S. Franklintown Rd.; Womack Trucking Inc., located at 100 S. Franklintown Rd.; Coastline Tours, located at 120 S. Franklintown Rd.; and Ferguson Bus and Moving Company, located in the unit block of S. Franklintown Rd. All of these businesses located in the heart of residential areas contribute in making our community's air and water qualities unsafe, by the fact that these companies liberally leave behind debris during and after traveling from one destination to another. These companies are also responsible for diminishing the quality of life, and in some cases, causes death, to some for the simple reason that lead, carbon monoxide, and other toxins these companies come with KILL.

Consider the psychological effects on the residents in these communities: Waking up to a home filled with exhaust fumes, the roars of trucks and bus motors constantly idling (some for hours), as well as trash and metal, e.g. copper being openly burned. These activities occur regardless to the hour of day or night. Fear of the residents in the community are valid, as we wonder when Lenmar will explode, or when the next fire will occur.

Let us also look at the damaging psychological effects that these conditions have on our children in the community. Children attending the Frederick Elementary School are subject to having to dodge eighteen wheelers, trucks, tour buses, moving vans, dump trucks, oil trucks and the like. I myself have witnessed countless amounts of near tragic accidents for these children, it's frightening! LARGE VEHICLES VIOLATING PEDESTRIAN SAFETY.

Finally, we should not overlook the residential structural damages that occur at home owners' expenses. The rights of the community at large are clearly violated. The Shipley Hill residents are in a very similar situation, as the Fairfield, the Heights, and the Wagner's Point residents.

- Community residents would like to know exactly what sites are being used to measure the toxic levels, found to be safe or normal in the Shipley Hill community?
- What are the actual cancer rates in this community?
GOOD MORNING:

MY NAME IS FREDDIE DAWKINS. I AM REPRESENTING THE COALITION OF CENTRAL PRINCE GEORGE'S COUNTY COMMUNITY ORGANIZATIONS. I AM HERE TODAY TO APPEAL TO YOU CONCERNING ENVIRONMENTAL INJUSTICE TO LOW INCOME AND MINORITY COMMUNITIES IN CENTRAL PRINCE GEORGE'S COUNTY.

DESPITE EXISTING LAWS AND REGULATIONS UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND THE NATIONAL ENVIRONMENTAL POLICY ACT, ENVIRONMENTAL INJUSTICE WITHIN CENTRAL PRINCE GEORGE'S COUNTY IS A MAJOR PROBLEM. THIS AREA HAS BEEN CONSISTENTLY TARGETED AND FLOODED WITH UNPOPULAR FACILITIES SUCH AS LANDFILLS AND OTHER POLLUTING OPERATIONS THAT PROPOSE A DISPROPORTIONATE AMOUNT OF HEALTH AND ENVIRONMENTAL RISKS TO LOW-INCOME AND MINORITY COMMUNITIES. A RANDOM SURVEY CONDUCTED WITHIN AN APPROXIMATE 5 SQUARE-MILE RADIUS INDICATED THE FOLLOWING EXISTING HAZARDOUS FACILITIES IN CENTRAL PRINCE GEORGE'S COUNTY:
1 RUBBLE LANDFILL WITH A ROCK CRUSHER OPERATION
1 SANITARY LANDFILL
4 CLASS III LANDFILLS (ILLEGAL RUBBLE LANDFILLS NOT BEING MONITORED)
2 TRANSFER STATIONS
1 ASPHALT PLANT
3 RECYCLING PLANTS
4 SAND AND GRAVEL MINES

IN ADDITION TO THE ABOVE EXISTING FACILITIES, THE FOLLOWING ARE PROPOSED FOR CENTRAL PRINCE GEORGE'S COUNTY:

1 EXPANSION RUBBLE LANDFILL
1 NEW LANDFILL
1 NEW TRANSFER STATION

ALSO, AS OF 2001, APPROXIMATELY 100% OF TRASH AND WASTE GENERATED IN AND OUT-OF-COUNTY IS DEPOSITED IN CENTRAL PRINCE GEORGE'S COUNTY, WHICH IS COMPRISED OF MOSTLY LOW-INCOME AND MINORITY COMMUNITIES. NO ONE SEGMENT OF A COUNTY SHOULD BE SURROUNDED BY HAZARDOUS FACILITIES AND FORCED TO BEAR A DISPROPORTIONATE BURDEN OF TRASH AND WASTE, WHILE OTHER MORE AFFLUENT COMMUNITIES ENJOY A CLEAN, HEALTHY ENVIRONMENT IN WHICH TO LIVE, WORK AND LEARN. ALL COMMUNITIES SHOULD BE TREATED EQUALLY WHEN
CONSIDERING HAZARDOUS FACILITIES. THE PRACTICE OF IMPOSING
UPON THE LESS FORTUNATE COMMUNITIES FOR HOUSING NEGATIVE
 FACILITIES IS NOTHING LESS THAN ENVIRONMENTAL RACISM.

WE SOLICIT YOUR ASSISTANCE IN OUR EFFORTS TO CORRECT THE
IMBALANCE OF ENVIRONMENTAL THREATS IN OUR COMMUNITY. WE
ARE OVERWHELMED!! WE ARE OVERWHELMED!!
GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE COMMISION ON ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES. FOR THE RECORD, MY NAME IS DOUGLAS EDWARDS, AND I RESIDE AT 708 QUARRY AVENUE IN CAPITOL HEIGHTS, MARYLAND. I AM HERE TODAY AS AN OFFICER OF THE COALITION OF CENTRAL PRINCE GEORGE'S COUNTY COMMUNITY ORGANIZATIONS, REPRESENTING MORE THAN 25,000 VOTERS IN CENTRAL PRINCE GEORGE'S COUNTY. THESE ARE THE PEOPLE YOU REPRESENT; I IMPLORE YOU TO REPRESENT THEM WELL.

THANK YOU FOR GIVING ME THE OPPORTUNITY TO COME BEFORE THIS DISTINGUISHED BODY OF CONCERNED MARYLANDERS. I WOULD LIKE TO GIVE PARTICULAR ACKNOWLEDGEMENT TO MY STATE SENATOR, THE HONORABLE ULYSSES CURRIE WHOSE INTEREST IN ENVIRONMENTAL MATTERS IS CONSUMMATED AND WHOSE RECORD ON THIS SUBJECT IS UNIMPEACHABLE.

BEFORE LEARNING OF THIS COMMISSION, I WAS BEGINNING TO WONDER IF I WOULD SEE, IN MY LIFETIME, THE KIND OF CONCERN FOR THE HEALTH AND WELFARE FOR RESIDENTS OF CENTRAL PRINCE GEORGE'S COUNTY WHICH IS EXEMPLIFIED HERE TODAY. IT IS THE EPI TONE AND HEIGHT OF MY JOY TO SHARE IT WITH YOU.

I HAVE BEEN A RESIDENT OF MARYLAND FOR MORE THAN THIRTY-FIVE YEARS, LIVING IN THE SAME COMMUNITY OF PRINCE GEORGE'S COUNTY FOR OVER THIRTY OF THOSE YEARS. I HAVE SEEN PRINCE GEORGE'S COUNTY AT ITS LOWEST POINT, AT ITS HIGHEST POINT, AND WHERE IT IS TODAY. IN ALL HONESTY, IT IS PAINFUL TO SEE WHERE CENTRAL PRINCE
GEORGE’S COUNTY IS TODAY. GIVEN SOME OF THE ATROSITIES CURRENTLY BEING COMMITTED AGAINST CITIZENS IN CENTRAL PRINCE GEORGE’S COUNTY, WE ARE COMPELLED TO ASK WHERE IS YOUR SENSE OF ESSENTIAL FAIRNESS AND WHAT HAS HAPPENED TO YOUR CONCEPT OF SOCIAL JUSTICE?

DR. MARTIN LUTHER KING ONCE SAID, “INJUSTICE ANYWHERE IS A THREAT TO JUSTICE EVERYWHERE”. THERE IS AN INJUSTICE BEING COMMITTED IN CENTRAL PRINCE GEORGE’S COUNTY AS WE SPEAK.

ONE MANIFESTATION OF THIS INJUSTICE IS THE FACT THAT CENTRAL PRINCE GEORGE’S COUNTY HAS BECOME A DUMPING GROUND FOR WASTE ORIGINATING NOT JUST IN PRINCE GEORGE’S COUNTY, BUT COMING FROM SURROUNDING COUNTIES AS WELL. CENTRAL PRINCE GEORGE’S COUNTY HAS MORE TOXIC DUMPS, JUNKYARDS, LANDFILLS, RUBBLE FILLS, RECYCLING FACILITIES, AND OTHER WASTE DISPOSAL FACILITIES THAN ANY OTHER COUNTY IN MARYLAND. AND THIS ENVIRONMENTAL ATROCITY OCCURS IN OUR COMMUNITY WHICH APPROXIMATELY 90% OF THE CITIZENS ARE EITHER RACIAL MINORITIES, ELDERLY, OR CLASSIFIED AS THE WORKING POOR. THIS IS AN INJUSTICE, AN UNFORGIVABLE ONE. IT IS A TRAVERSTY AGAINST PEOPLE WHO ARE VIRTUALLY POWERLESS, EXCEPT AT THE BALLOT BOX, TO RETALIATE AGAINST THOSE WHO IMPOSE THESE ATROSITIES AGAINST THEM.

WHEN WE SEE OUR PLANNING COMMISSION GRANT SPECIAL EXCEPTIONS THAT REQUIRE VARIANCES OF MORE THAN 4/5 TO FACILITATE THE PLACEMENT OF A TRANSFER STATION IN A COMMUNITY MADE UP OF SENIOR CITIZEN, THE PHYSICALLY AND MENTALLY CHALLENGED, AND ECONOMICALLY DISADVANTAGED OF CENTRAL PRINCE GEORGE’S COUNTY, AFTER ALL WE HAVE ENDURED, THE CITIZENS RECOGNIZE THAT AN INJUSTICE HAS OCCURRED. WE EXPECT OUR ELECTED OFFICIALS TO
PROTECT US FROM THESE INJUSTICES. YET, OUR CRIES FOR SIMPLE
SOCIAL JUSTICE GO UNHEARD AND OUR GRIEVANCES UNADDRESSED.

YET WHEN WE SEE THE PLANNING BOARD AND THE DISTRICT COUNCIL
APPROVE THE CONSTRUCTION OF A 4,300 CAR PARKING LOT IN A
COMMUNITY THAT HAS AN “F” RATING ON ITS ENVIRONMENTAL REPORT
CARD, IN A COMMUNITY WHICH IS ALREADY A HEAT ISLAND, THE PEOPLE
WONDER IF THEIR GOVERNMENT REPRESENTATIVES ARE ON THE SIDE OF
JUSTICE AT ALL. SIMPLY BECAUSE IT MEETS THE ZONING CODE
REQUIREMENT FOR SUCH STRUCTURE. HOWEVER, NO CONSIDERATION IS
GIVEN TO THE FACT THAT AT THE TIME OF THE ZONING, THERE WERE
FEW IF ANY STRUCTURES THERE. TODAY, MORE THAN 90% OF THE AREA
WHERE THIS 4,300 CAR PARKING LOT IS BEING CONSTRUCTED IS COVERED
IN ASPHALT AND CONCRETE. THIS COUPLED WITH THE FACT THAT 195 IS
LESS THAN 1/4 FROM THE SAME SITE WHERE THE PARKING LOT IS
SCHEDULED FOR CONSTRUCTION.

THE QUESTION BECOMES, DO YOU THINK THE PEOPLE OF CENTRAL
PRINCE GEORGE’S COUNTY WILL SIT IDLY BY WHILE THEIR CHILDREN
AND THEIR ELDERS ARE FORCED TO INHALE THE NOXIOUS FUMES OF THE
4,300 CAR PARKING LOT? DO YOU BELIEVE THAT ON ELECTION DAY THEY
WILL FORGET WHO ALLOWED THIS INJUSTICE TO OCCUR? DO YOU NOT
BELIEVE THAT THEY WILL LIKewise REMEMBER, ON THAT SAME
ELECTION DAY, ALL THOSE WHO STOOD UP AND FOUGHT FOR JUSTICE?
CENTRAL PRINCE GEORGE’S COUNTY IS AN AREA IN WHICH OVER 90% OF
THE COMMUNITY IS COVERED IN CONCRETE. IN TIME, OUR HEARTS WILL
BECOME CONCRETE TO THOSE WHO SOLICIT OUR VOTES, BUT DO NOT
FIGHT INJUSTICES PERPETRATED AGAINST US. ANOTHER QUESTION TO BE
ASKED OF THOSE ARE CHARGED WITH THE RESPONSIBILITY FOR OUR
HEALTH AND WELFARE – ARE YOU AWARE THAT THE SAME POISON THAT
KILLS ME TODAY WILL KILL YOU TOMORROW – NO ONE IS IMMUNE, NOT EVEN YOU.

DO YOU THINK THAT WE HAVE FORGOTTEN THE PRETEXT USED TO SECURE OUR TAX DOLLARS ($4.3 MILLION) TO EXTEND THE BLUE LINE TO CAPITAL CENTRE TO GET PEOPLE OUT OF THEIR CARS? DO YOU THINK THAT WE HAVE FORGOTTEN THAT A 600 CAR PARKING LOT IS PROPOSED FOR THE SUMMERFIELD STATION ON THE BLUE LINE TO GET PEOPLE OUT OF THEIR CARS? DO YOU THINK THAT WE HAVE FORGOTTEN THAT A 2,200 CAR PARKING GARAGE HAS BEEN PROPOSED FOR THE CAPITAL CENTRE BLUE LINE? DO YOU THINK THAT JUSTICE IS BEING DONE TO THOSE OF US WHO LIVE, OR TRY TO LIVE IN THIS COMMUNITY WHEN YOU ALLOW THE WASHINGTON FOOTBALL TEAM TO PACK ANOTHER 4,300 CAR IN OUR COMMUNITY WHERE THE AIR QUALITY IS ALMOST UNBEARABLE ON YOUR BEST DAY.

TO COMPOUND THE INJUSTICE CAUSED BY THE ENVIRONMENTAL ISSUES FACING OUR COMMUNITY, CENTRAL PRINCE GEORGE’S COUNTY IS ALSO BEARING THE BRUNT OF THE INFLUX OF WASHINGTON DC RESIDENTS ARRIVING IN MARYLAND AFTER THE CLOSING OF THE SECTION 8 REGISTER FOR LOW INCOME HOUSING. THE PEOPLE OF CENTRAL PRINCE GEORGE’S COUNTY ARE KEENLY AWARE THAT THIS HOUSING PATTERN IS THE RESULT OF CAREFUL PLANNING BY THOSE WHO WISH TO MAINTAIN A SEPERATION OF THE CLASSES IN MARYLAND. THIS, MOST ASSUREDLY, IS AN INJUSTICE.

THE MOST STARTLING UNJUST ACT OF RECENT MEMORY WAS THE ATTACK ON THE WORLD TRADE CENTER IN NEW YORK CITY. THE TWIN TOWERS FELL LIKE THE GREAT CITY OF BABYLON AND SOUTHERN MANHATTAN WAS COVERED IN RUBBLE. TODAY, CENTRAL PRINCE GEORGE’S COUNTY IS COVERED IN RUBBLE WITHOUT A BOMBING, AS THE
RESULT OF THE POLICIES OF MARYLAND LEGISLATORS, NOT TERRORISTS
AND SLOWLY BUT SURELY BECOMING THE BABYLON OF THE CENTURY.
EVERY CHILD WHO GROWS UP IN AN ENVIRONMENT FLOODED WITH
NOXIOUS FUMES, STREWN WITH GARBAGE, AND DROWNED IN
HOPELESSNESS, IS A CHILD WHO DIES SLOWLY BY THE DAY. WE ARE
KILLING THE CHILDREN OF CENTRAL PRINCE GEORGE'S COUNTY.
DEATHS FROM, AND ILLNESS RELATED TO, ASTHMA, CANCER, AND
NUMEROUS OTHER MALADIES ARE PROXIMATELY CAUSED BY THE
ENVIRONMENTAL POLICY THE STATE OF MARYLAND HAS PURSUED AND
PARTICULARLY, IN CENTRAL PRINCE GEORGE'S COUNTY. LET US NOT
FORGET THESE SLOW DEATHS, NOT AS DRAMATIC AS A TERRORIST
ATTACK, BUT STILL, WITHOUT QUESTION, AN INJUSTICE. WE CANNOT LET
THIS INJUSTICE STAND.

POWER PHRAISING FROM THE 18TH CHAPTER OF REVELATION:
"...BABYLON THE GREAT IS Fallen, is fallen, and is become the
HABITATION OF EVIL, AND THE HOLD OF EVERY FOUL SPIRIT, AND A
CAGE OF EVERY UNCLEAN AND 'HATEFUL BIRD.'" FOR HER SINS HAVE
REACHED UNTO HEAVEN, AND GOD HAS REMEMBERED HER INIQUITIES.
THEREFORE SHALL HER PLAGUES COME IN ONE DAY, DEATH, AND
MOURNING, AND FAMINE; AND SHALL BE UTTERLY BURNED WITH FIRE.
AND THE MERCHANTS SHALL WEEP FOR NO ONE BUY THEIR
MERCHANDISE, THE MERCHANTS OF THESE THINGS WHICH THEY WERE
MADE RICH. FOR IN ONE HOUR SO GREAT RICHES IS COME TO AN END,
AND THEY CRIED WHEN THEY SAW BABYLON IN RUINS, FOR IN ONE HOUR
BABYLON WAS MADE DESOLATE.

THE ENVIRONMENTAL PROTECTION AGENCY HAS MADE THE WISE AND
JUST DECISION TO ORDER MARYLAND TO ALLOW GREATER PUBLIC
PARTICIPATION IN THE INDUSTRIAL PERMITTING PROCESS. THROUGHOUT
ITS EXISTENCE, THIS PERMITTING PROCESS HAS BEEN NEITHER JUST NOR HAS IT EVER TAKEN INTO CONSIDERATION THE PUBLIC INTEREST WHEN MAKING ITS DETERMINATIONS. WHILE MARYLAND LAW ALLOWS PARTIES TO SEEK JUSTICE IN THE COURTS, CITIZENS' GROUPS SUCH AS MY OWN RARELY HAVE THE FINANCIAL RESOURCES TO PREVAIL IN THE JUDICIAL ARENA. NOW THAT THE E.P.A. HAS ORDERED MARYLAND TO PERMIT GREATER PUBLIC PARTICIPATION IN THE PERMITTING PROCESS, PERHAPS FINALLY THOSE WITH LESS FINANCIAL RESOURCES MAY ATTAIN ENVIRONMENTAL JUSTICE.

I THANK THE COMMISSION FOR ALLOWING ME TO TESTIFY. I URGE YOU ALL NOT TO FORGET THAT AN INJUSTICE ANYWHERE IS A THREAT TO JUSTICE EVERYWHERE. CORRECT THIS INJUSTICE. MAY GOD BLESS YOU. GOOD AFTERNOON.
LEAD RESEARCH
Statement of Lynn Pinder to the Maryland Commission on Environmental Justice and Sustainable Communities

In the City of Baltimore, the number of youth drifting in and out of America’s juvenile court system is on the rise. Moreover, reports from the Maryland Department of Education within the last five years demonstrate that achievement levels for youth in Baltimore City Public Schools are alarmingly low. It is also a fact that the City of Baltimore, in comparison with other cities across the nation, continues to have one of the highest rates of childhood lead poisoning.

When one begins to understand both the physiological and psychological impacts of lead poisoning, there is no denying the links between lead poisoning and increased rates in juvenile crime and decreased academic scores. A number of legitimate health studies link lead poisoning to increased aggressive behavior and learning disabilities in youth. Even after taking into account other predictors of delinquency, such as maternal intelligence, socioeconomic status and child-rearing factors, including the number of children in the family and the presence of two parents in the home, children with higher lead levels were more likely to engage in juvenile crime.

Children exposed to lead have significantly greater odds of developing delinquent behavior, according to a University of Pittsburgh researcher, Herbert Needleman, MD. Results of his study were presented at the May 2000 Pediatric Academic Societies and American Academy of Pediatrics Joint Meeting. The study examined 216 youths convicted in the Juvenile Court of Allegheny County, Pa., and 201 non-delinquent controls - students from high schools in Pittsburgh. Bone lead levels demonstrated that the delinquent youths had significantly higher mean concentrations of lead in their bones. These test results were true for both European Americans, African Americans, males, and females -- all included as participants in the study.

While this study is the first to show that lead exposure is higher in arrested delinquents, it is part of a growing body of evidence linking lead to cognitive and behavioral problems in children. In 1996, Dr. Needleman published a study of 300 boys in Pittsburgh public schools and found that those with relatively high levels of lead in their bones were more likely to engage in anti-social activities like bullying, vandalism, truancy and shoplifting. In 1979, Dr. Needleman, using measurements of lead in children's teeth, concluded that children with high lead levels in their teeth, but no outward signs of lead poisoning, had lower IQ scores, poorer attention and poorer language skills. This study and others like the ones completed by Dr. Needleman prove the possibility that some of the violence in our society could be the result of preventable environmental pollution by lead. In some findings, for every increase of 1 microgram, there was an estimated reduction in reading scores of 1 point and a slightly smaller drop in math scores. It is important to note that the findings of these studies suggest that harmful effects of lead poisoning are seen at the lowest detectable blood levels, those under 10 micrograms.

In Baltimore, Kennedy Krieger Institute and various other medical institutions have been studying the issue of lead poisoning for over thirty years. Kennedy Krieger Institute and the Johns Hopkins School of Public Health recently came under fire by a coalition of community groups, including YOUTH WARRIORS, the Northeast Environmental Justice Network, and the
People’s Plan regarding the Lead Abatement Repair and Maintenance Study (R & M Study) initiated in the early 1990s.

The community groups feel strongly that Kennedy Krieger Institute had good intentions when initiating the R & M Study. However, the study used bad science because it allowed Kennedy Krieger Institute to make a judgment call to subject poor black children to a known risk in their community. There was no benefit to the children who participated in the study. The real benefit was to the property owners who from the findings of the study can now determine how little they need to invest in lead reduction in order to save money. When researchers already know that they way to protect children from lead poisoning is to remove lead from the environment. We must begin advocating for more money to construct new lead safe homes for families living in lead infested communities.

Kennedy Krieger Institute’s rationale for their R & M Study is that they chose families so bad off that could essentially do anything to them because anything they did would be better than the situation the families were already in. This line of thinking is skewed. It is unjust because the targeted population is left without a choice. It was not a decision between good or bad, but the lesser of two evils. In science, this is called the Hobson’s Choice. This line of thinking in itself is evidence that Kennedy Krieger Institute used a study that put at risk families that were already disproportionately impacted by the problem of lead poisoning. Although the Kennedy Krieger Institute’s R & M research design followed federal guidelines, it still unjustly targeted a vulnerable population - Black mothers with children in poor neighborhoods. The fact that some children, even a small few, still had increased blood lead levels demonstrate that the federal guidelines are not doing enough to protect children against lead poisoning.

Legislative Recommendations:

1. Legislators need to protect our children by requiring more money for construction of lead safe housing in low-income communities.
   "This study provides further evidence that delinquent behavior can be caused, in part, by childhood exposure to lead," said Dr. Needleman. "Of all the causes of juvenile delinquency, lead exposure is perhaps the most preventable. This effort could save the state millions of dollars because it decreases the expected number of individuals to enter the criminal justice system.

2. Legislators need to review research findings on maximum thresholds. The recommended limit of 10-micrograms is inadequate to protect children and a maximum threshold of at least half the current 10-microgram limit should be proposed.

3. Legislators need to introduce and support more anti-lead poisoning bills. Seven years ago, Representative Ben Cardin (D-Md.) introduced legislation to provide a dedicated source of funds for abating lead-based paint hazards in housing and daycare centers. This legislation would have imposed an excise fee on lead ($0.45 per pound) as it is introduced in commerce (via primary and secondary smelters, and via the import of lead and lead-containing products). By increasing the price of lead, the fee would provide strong incentives for substitution and recycling. Safeguards in the trust fund legislation ensured that benefits accrue to low-income families, federal funds are directed to the most
workers and occupants are fully protected. The bill was expected to generate thousands of
jobs paying decent wages in areas with the highest unemployment levels. Unfortunately,
the legislation failed to gain passage in 1994. The legislation embodies critical concepts for
lead poisoning prevention and some variation of this legislation should be included for
future congressional consideration.

Sources:

"Lead Tied to Juvenile Delinquency Study: Millions more children may suffer from
exposure" ASSOCIATED PRESS

"The Path to Delinquency: Juvenile Delinquency and Lead Exposure Link" By Lindsey Tanner THE ASSOCIATED PRESS

http://www.hud.gov/lea/learnual.html
http://www.idph.state.il.us/public/hb/hiblead.htm
http://healthlink moc.edu/article/962133830.html

3011 Baker Street
Baltimore, MD 21216
(410) 233-0521
(410) 233-7614
ywaction1@yahoo.com
OXON HILL RESIDENTS
December 11, 2001

Dr. Andrew Sawyers
Environmental Justice and Community Development Coordinator
Maryland Department of the Environment
2500 Broening Highway
Baltimore, MD 21224

Dear Dr. Sawyers,

We, the Campaign to Reinvest in the Heart of Oxon Hill, request that you review the National Harbor proposal in Oxon Hill. The proposal to build ten theme hotels and a deep-water port on the Potomac River adjacent to our existing residential community would have unacceptable impacts on our quality of life, and would use Oxon Hill as a sacrifice zone -- a designated place to locate undesirable sort of development that more prosperous communities would not be forced to use.

*The Region Divided*, the economic study of the Washington Metropolitan Area by the Brookings Institute, points out that although the Washington Metropolitan area is generally a prosperous one, there are pockets of disinvestment. Further, it points out that race is a predictor of the location of these pockets, and that the region has the tools to effect positive change in this situation -- but that the wrong policies would widen the gaps, making the entire region a less desirable place to live and work. In the beginning of the twenty-first century and in our Nation's Capital we should be striving to create a region united by economic prosperity.

National Harbor is the largest commercial development proposal ever in the State of Maryland. It is proposed for a predominately African American community. It envisions the creation of an employment pattern that would long into the future encourage the youth of our community to set their sights low. Our community urgently needs economic development and job creation -- but of a kind, consistent with the Smart Growth principle, that will allow our community to prosper -- and to be served by transportation -- just as well as other communities around the Beltway. The Campaign to Reinvest in the Heart of Oxon Hill requests a meeting so that we can present our concerns to you for review. Please contact us to set up a time for a meeting.

Sincerely,

Bonnie Bick
Steering Committee
The Campaign to Reinvest in the Heart of Oxon Hill
POINT OF ROCKS POWER PLANT CONCERNS
January 2, 2002

Governor Parris Glendening
Annapolis, Maryland 21401

RE: Commission on Environmental Justice and Sustainable Communities

Governor Glendening,

Under your leadership Maryland has become a leader in the passage of landmark legislation regarding land use. I applaud your statement that: "...there is nothing that will have a greater, more lasting impact on the future of our citizens than to assure that our future growth is smarter and more sensitive to quality of life impacts."

Unfortunately, Frederick County's prime farmland and Potomac River resources including the Chesapeake & Ohio Canal National Historic Park are being threatened. Currently, within a ten mile radius are six proposed electric power plants - five in Maryland - four being within a few miles of each other in Frederick County. Three of these power plants propose to consume close to 1,000 acres of permanently preserved farmland which also protects the magnificent vista views of Sugarloaf and Catoctin Mountains.

The Frederick County Board of Commissioners, together with the Adamstown Region residents, worked for close to three years on the Adamstown Regional Plan. As responsible stewards of the land, environment, and natural resources, we followed Maryland's guidelines embodied within the Planning Act of 1992. Our goal was Maryland's goal - to preserve open space, farmland and natural beauty. Together the local government with the involved public devised a regional plan to meet or exceed Maryland's preservation and environmental standards and goals.

Unfortunately, Subtitle 3, Title 3 of the Natural Resources Article of the Annotated Code of Maryland states that when the Secretary of Natural Resources deems a site suitable for an electric generating facility, local zoning rules can be pre-empted. This could allow power plant companies the opportunity to bypass our protective measures. This law would:

- Appear to be in conflict with the Planning Act of 1992.
- Set Maryland apart from almost all states in the country that require local county zoning approval prior to submitting an application to the state.
- Undermine the very foundation of Article 66B which clearly states that local land use is best determined by local government.
- Negate, rather than reward, the public effort spent for close to three years.

The Frederick County Commissioners, in their continued efforts to preserve farmland, on November 1, 2001 signed a resolution stating their opposition to industrial development of land that is not zoned industrial. The Commissioners also specifically rejected Duke Energy's application to build on 752 acres of Frederick County's farmland.

Maryland, in its continued effort to enforce Smart Growth Policies, appears to be at odds with the Carroll County Commissioners new zoning law, which could counter the goals of the state's farmland preservation program. In a December 7, 2001 Baltimore Sun article, Secretary
Roy Kienitz was quoted as saying: "This was really such a huge step backward on their part that if we didn't do something here, we wouldn't have any credibility to do anything anywhere else."

Would industrial power plants consuming preserved farmland also jeopardize Maryland's credibility to enforce Smart Growth and Preservation Programs that have set Maryland apart as a leader in this Nation?

Additional impacts of this unplanned industrial growth:

- Historic African American Community - Duke Energy's proposed Frederick County site is adjacent to the Pleasant View Community which is believed to have been settled by former slaves, some from the neighboring Moreland Plantation. The historical significance of Pleasant View is enhanced by seven early residences, as well as a church.

- This same proposal involves the vicinity of Tuscarora Creek, named after the Tuscarora Indians. This area has many Native American Sites.

- This area is planned for Rural Legacy as funding becomes available.

- This hallowed ground was once owned by Charles Carroll of Carrollton, a signer of the Declaration of Independence. The Region has prolific historical sites including Charles Carroll of Carrollton's stone mill, St. Paul's Episcopal Church, numerous Plantation homes with substantial acreage, archaeological sites, and more.

- Maryland has anticipated spending $7 billion towards cleaning up the existing pollution in the Chesapeake Bay. Current utilities contribute 38% to the nitrogen deposition of the Bay. What additional impact might these proposed power plants within close proximity to the Potomac River have on Maryland's efforts to clean up the Chesapeake Bay?

Would these proposed power plants on our valued farmland be:

- An environmental injustice to this region?
- Be a further injustice to the descendants of slaves in Pleasant View as well as to our Native American history?
- Promote industrial sprawl?
- Alter the natural beauty of our landscape?
- Increase pollution in an already polluted environment?
- Change the quality of life we are privileged to enjoy?
- Totally negate the valuable input of the Adamstown Region Citizenry?

Would these proposals threaten Maryland and Frederick County's common sense approach to growth? Where do we grow from here?

Very truly yours,

Lisa Baugher
Post Office Box 99
Tuscarora, Maryland 21790