

Executive Summary

Commission on Environmental Justice & Sustainable Communities

Annual Report 2002

INTRODUCTION

The Commission on Environmental Justice and Sustainable Communities was established by Executive Order January 1, 2001.¹ The Commission has been tasked to examine environmental justice and sustainable communities' issues that may be associated with creating healthy, safe, economically vibrant, environmentally sound communities for all Marylanders in a manner that allows for democratic processes and community involvement. The United States Environmental Protection Agency (EPA) has called for States to address Environmental Justice issues as appropriate and for improvements in efficiency and sustainability in the use of resources and production processes.

The EPA defines environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." Fair treatment means that no group of people including a racial, ethnic, or socio-economic group should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

Additionally, Maryland's definition, which builds on EPA's definition, specifically notes that all citizens of the State should expect (1) to be protected from public health hazards and (2) to have access to the socio-economic resources necessary to address concerns about their livelihood and health.

CHALLENGES

The Commission, through its work this year (through hearings and citizens' feedback), affirms prior findings that some communities do not uniformly experience healthy environments. Particularly, poorer communities and communities of color are much more likely to live amidst excessive pollution, hazardous waste sites, and in older, substandard housing. These conditions, combined with poorer access to health care services and inadequate education, have translated to poorer health status and further diminishment of the economic viability of the community. Additional challenges to citizens from these communities are barriers to viable participation in the planning processes resulting in direct negative impacts to their quality of life.

AREAS OF CONCERN

During community hearings hosted by the Commission, the following issues were raised:

- Disproportionate burden of health problems, such as asthma and lead poisoning;
- Disproportionate siting of locally unwanted land uses (LULUs), e.g., power plants, landfills, and other uses that are associated with environmental pollution;
- Limited opportunities for economic development in certain disenfranchised communities;

¹ A list of the membership is attached.

- Inequities in research practices associated with environmental health studies;
- Unequal access to hearing and permitting processes and regulatory protection; and,
- Differential establishment and maintenance of water, wastewater, and sewer infrastructure.

RECOMMENDATIONS

The Commission has been holding hearings and monthly meetings to develop a set of recommendations for the Governor on environmental justice and sustainability in the State. The deliberations and recommendations are still preliminary and will be further developed in the coming year. The general categories of issues are as follows:

1. Integrate environmental equity into state and local agencies operations
2. Develop a data gathering tool designed to foster public participation and promote better planning by characterizing the strengths and needs of our communities from health, economic and environmental perspectives. (A significant part of this work has been identifying data and data gaps necessary to make the characterizations.)
3. Improve public participation processes during planning and implementation of economic development activities, permitting, and regulatory hearings.
4. Creating an official forum for Maryland citizens to comment on environmental justice and sustainable development issues.
5. Better prepare state and local agencies to address issues associated with environmental justice and sustainability by training and preparing agency employees. Establish an environmental justice contact person within each agency.
6. Create a vision for economic development in Maryland that takes into account environmental justice, public health, and ecological health, sustainability and community participation

PLANNED COMMISSION ACTION ITEMS FOR 2003

1. Develop and implement an environmental justice-training program for State and local agency employees.
2. Convene a series of public forums on environmental justice and sustainable development around the State. (These forums will be supported by a grant from the U.S. Environmental Protection Agency.)
3. Complete the first draft of the data index tool. (Academicians who have been attending the Commission meetings, may pilot this tool, thus further informing the Commission about its utility). Appended is a copy of the data index tool in its current form.
4. Enhance the committees' work of the Commission to develop more detailed regulatory, health, and economic development recommendations in the coming year.

The Commission believes that it has been tasked with extremely important work for the State of Maryland and looks forward to working with the Governor of Maryland. The Commission is prepared to help move environmental justice concerns into the mainstream of discussion and community planning procedures. We believe that community vitality and involvement is a practical ingredient to vibrant economic development.

Commission on Environmental Justice & Sustainable Communities (CEJSC)

Final Report and Recommendations

DECEMBER 2002

PURPOSE

The Maryland Commission on Environmental Justice and Sustainable Communities (CEJSC) developed the following report for review and consideration by the Governor of Maryland. The report highlights a brief history of environmental justice in the United States and Maryland, the background of the Commission, and summarizes key recommendations and suggestions since January 2002. Finally, it briefly highlights planned actions for 2003.

INTRODUCTION AND BRIEF HISTORY OF ENVIRONMENTAL JUSTICE

Across the United States, Maryland is known as a champion for causes related to environmental equity and revitalization of communities. The State has made significant inroads by developing policies and approaches aimed at revitalizing communities and reducing some of the concerns that often plague disenfranchised communities. Maryland has made progress, notwithstanding the difficulty associated with revitalizing communities that are poor, marginalized and far removed from decision-making processes. Nevertheless, there is recognition that some communities rarely achieve the success that others do, and often, they claim that they are recipients of Locally Unwanted Land Uses (LULUs).¹

Nationally, research has taken place and continues to better understand the issues around LULUs, citizens environmental concerns, as well as concerns related to environmental justice.² In Maryland, dialogue with some communities and their citizens, mirrors some of the findings of national research related to environmental equity and injustice.³ Some of these findings highlight how minority and low-income communities rarely benefit from some revitalization policies.

Findings also show that environmental justice issues are growing in importance in several areas. They include suggestions that environmental amenities on the one hand and toxic waste sites on the

other are not uniformly distributed among income groups, classes, or ethnic communities. On a larger scale, some citizens believe that there are marked and increasing disparities concerning those who have access to clean and safe resources and those who do not. Disparities of this nature may be the result of historical circumstances, lack of community participation, or simply inadequate or inappropriate oversight. Whatever their source, citizens are now looking at governmental agencies to provide understanding and amelioration to many of these environmental equity problems.⁴

Environmental equity—preventing disproportionate effects of environmental degradation on people and places—has been a governmental concern for at least three decades (Bullard 1998; Berry 1997; Cutter 1994; U.S. Government Accounting Office 1993, 1995). For many activists, the environmental justice movement began in 1982 in Warren County, North Carolina (Gleeson 1998). “Although the protestors were unsuccessful in blocking the PCB landfill, they brought national attention to waste facility siting inequities and galvanized African-American church and civil rights leaders in support for environmental justice” (Bullard 1993, pg. 34). This movement *invented* the potent combination of words “Environmental Justice” or Eco-Justice (Sachs 1995). It shifted the discussion about environmentalism in the United States (Gottlieb 1993), destroying the NIMBY (not in my backyard) image of grassroots environmental protests by turning them into NIABY protests (not in anyone's backyard).

In the early 1990s, coalitions of civil rights and environmental activists transformed environmental equity concerns into the environmental justice movement, ostensibly because of concerns about the placement of toxic waste facilities in low-income and minority communities (United Church of Christ Commission for Racial Justice 1987; Bullard et al., 1990; Bullard 1994; Bryant, et al., 1995). The First National People of Color Environmental Leadership Summit was held in 1991. These efforts in tandem with a study commissioned by the U.S. EPA in 1990, culminated in the establishment of the U.S. Environmental Protection Agency's (EPA's) Office of Environmental Equity in 1992. In 1994, environmental justice was institutionalized within the federal government through Executive Order 12898 (EPA 1995a), which focused federal attention on human-health and environmental conditions in minority and low-income communities. It also provided for greater public participation and access to environmental information in affected communities (EPA 1995a, 1995b, 1995c, 1995d).

On August 21, 2001, EPA's Administrator issued a memorandum reaffirming the agency's commitment to environmental justice and recommended its integration into all programs, policies, and activities consistent with existing environmental laws and their regulations. The Administrator said "environmental statutes provide many opportunities to address environmental risks and hazards in minority or low-income communities." The Administrator's memorandum coupled with the Executive Order, and other long standing statutory and policy requirements, has led EPA to renew its call for states to address environmental justice issues as appropriate and for improvements in efficiency and sustainability in the use of resources and production processes.

The EPA defines environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people including a racial, ethnic, or socioeconomic group should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

Additionally, Maryland's definition, which builds on EPA's definition, specifically notes that all citizens of the State should expect (1) to be protected from public health hazards and (2) to have access to the socioeconomic resources necessary to address concerns about their livelihood and health.

ENVIRONMENTAL JUSTICE IN MARYLAND

In an effort to better understand the confluence of concerns related to environmental justice in Maryland, on April 7, 1997, the Maryland General Assembly passed House Bill 1350, establishing the Maryland Advisory Council on Environmental Justice (MACEJ). The primary purpose of MACEJ was to provide recommendations to the Governor and members of Maryland's General Assembly on environmental justice matters, including policy, community concerns and participation, streamlining decision-making processes to include diverse perspectives, enforcement of laws, and highlighting discriminatory laws. In fulfilling its charge, MACEJ established several forums for public discussion on environmental justice. These included undertaking more than 75 open meetings over two years and five major statewide workshops. Most of the small open meetings were held at the Maryland Department of the Environment (MDE). The five statewide

meetings were held in Hagerstown, Baltimore City, Wagner's Point, Salisbury, and Prince George's County.

The statewide workshops raised several concerns about potential EJ issues such as lead poisoning, increased asthmatic levels and other respiratory concerns, communication, infrastructure needs, locally unwanted land uses (LULUs), living and working conditions, limited regulatory protection, public involvement and outreach, crime, drugs, needles, research, permits, state administrative limitations, inequities/disparities, and the like. It was clear from the statewide meetings that additional study was necessary to further understand and address concerns related to developing sustainable communities. MACEJ made several recommendations that included creating a Commission on Environmental Justice and Sustainable Communities.⁵

THE COMMISSION ON ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES

On March 9, 2001, a Commission on Environmental Justice and Sustainable Communities was established pursuant to an executive order issued on January 1, 2001. The Commission was directed to perform the following six tasks:

- (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.

The Commission, which completed its first annual report to the Governor in December of 2001, has had several accomplishments related to its prescribed mandates. It will receive funding from the

U.S. EPA to support some of its recommendations. It has also become a forum for citizens of Maryland to voice their opinions. Further, the Commission roster consists of a diverse and well talented group of citizens who are working diligently to represent the interests of all Marylanders and to make recommendations intended to enhance the quality of life in all of Maryland's communities.

To encourage an enhanced quality of life for all Marylanders, the Commission has adopted a definition of environmental justice that reads;

“Environmental justice seeks equal protection from environmental and public health hazards for all people regardless of race, income, culture, and social class. Additionally, environmental justice means that no group of people including racial, ethnic or socioeconomic groups should bear a disproportionate share of the negative environmental consequences resulting from industrial, land-use planning and zoning, municipal and commercial operations or the execution of federal, state, local and municipal program and policies” (adopted from MACEJ's report, 1999).

Commission's Challenges and Areas of Concerns

In accordance with Executive Order 01.01.2001.01, the Commission through its work this year (through hearings and citizens' feedback), affirms prior findings that some communities do not uniformly experience healthy environments. Particularly, poorer communities and communities of color are much more likely to live amidst excessive pollution, hazardous waste sites, and in older, substandard housing. These conditions, combined with poorer access to health care services and inadequate education, have translated to poorer health status and further diminishment of the economic viability of the community. Additional challenges to citizens from these communities are barriers to viable participation in the planning processes resulting in direct negative impacts to their quality of life.

There is community concern about full integration of public involvement and planning within the framework of the State mandates, programs, and procedures. Community members have brought to the attention of the commission, concerns about inequities in research practices associated with lead paint studies, limited economic development opportunities in disenfranchised communities, concerns over the siting of power plants and landfills, and concerns about wastewater and sewer infrastructure, permitting, hearing processes, and the protection of public health.⁶

There are also concerns how some policies, regulatory practices and the like, that are geared toward revitalizing communities and reducing community concerns, are sometimes fraught with legal constraints and obstacles, limiting and absence of guidelines and often offer very little support to those most in need. For example, the Maryland Department of Environment (MDE) cannot unilaterally address environmental justice issues raised by any community. These issues typically have resonance in local zoning and are often associated with a diversity of concerns. The evolution and culmination of these concerns have led many citizens in Maryland to pursue remedies from State Government related to the issue of environmental justice and revitalization of disenfranchised communities.

Another concern that has been expressed to the Commission is that the much-used approaches of command and control or traditional regulatory practices are often inadequate to resolve community problems. Further, the concerns have revealed some of the limits of government and associated controls. The Commission has also learned that in many communities, potential environmental concerns, coupled with poverty, disenfranchisement and limited access to decision-making processes, can all give rise to fears of real and/or perceived discriminatory practices or treatment.⁷ Collectively, such concerns, which are often viewed under the aegis of environmental justice issues, require broader and more comprehensive solution-oriented approaches. Whether these concerns amount to injustice when ultimately analyzed, or not, solutions will require a set of ideas that implicitly recognize historical and contemporary laws, socioeconomic issues, and a host of other approaches.

The Commission's meetings and hearings are increasingly becoming a forum for the citizens of Maryland to express constructively real and perceived concerns and innovative solutions. The meetings have provided feedback that can serve as a catalyst for state agencies to analyze citizen concerns, discern gaps, appropriateness, and consistent themes. In turn, policies and technical policy solutions can be informed by listening to the voices of our citizens. By so doing, we are treating the problems experienced or perceived by our citizens as part of a larger process in which education, awareness building and decision support systems also has a role in revitalizing any community.

Summary of Commission's Recommendations

To address the multiple concerns and encourage community revitalization, several recommendations are being considered that were made during the Commission's deliberations. To operationalize and implement the recommendations, the Commission recognizes that this level of coordination needs the full support and direction from the Governor of Maryland. The recommendations include;

1: *Integrate Environmental Equity into State and Local Agencies Operations:* The Commission recognizes the unique challenges faced by many Maryland communities and recommends the integration of an environmental justice and sustainable communities ethic within all appropriate state and local agencies. Based on the Commission's 2001 annual report, some state agencies have started this work and have adopted the Maryland Department of the Environment's (MDE's) model as a framework for reference. The Commission recognizes that for many communities, the fact that there are federal, state, and local agency involvements makes it difficult to understand who is in charge of overall environmental quality in any given community. The U.S. EPA recently commissioned two instructive landmark studies to ascertain how best to integrate EJ concerns into the day-to-day operations of the agency.

2. *Environmental Justice Data Gathering Tool:* The Commission recommends the continued development of the Environmental Justice Data Gathering tool and is seeking the support of the Governor in enhancing the tool for use by business, regulators, local government and communities to help revitalize communities and to prevent and/or limit environmental justice concerns. Academicians are interested in piloting this tool as a part of their academic work, thus further informing the Commission about its utility at no cost to the State.

The tool once fully developed can assist in evaluating concerns so that state agencies can focus their limited resources on the highest priority areas. This tool could consider key indicators for evaluation. These could include economic indicators, community health indicators, social indicators, and general environmental indicators. In this context, the commission has identified and is working to resolve barriers related to data availability and accessibility, analytical relevance and scientific rigor, and measurability.

3: Improve Public Participation in Environmental Decision-Making: The Commission recommends that state and local agencies develop substantive public participation frameworks to guide and encourage improved public participation. To facilitate this effort, the Commission has already started this work to improve and build new partnerships between governments, businesses, and communities. One way to do this is to assure adequate public participation and stakeholder involvement. The Commission has found that public participation is a key ingredient toward protecting and restoring the quality of Maryland's air, land, and water resources, while fostering economic development, healthy and safe communities. The Commission also recommends continued coordination and collaboration with the US EPA, MDE, and others to seek external funding to support the Commission's work. Finally, we should consolidate and coordinate public participation processes during planning and implementation of economic development activities, permitting, and regulatory hearings.

4: Environmental Justice Forums: The Commission collaborated with MDE and EPA to secure funding for a series of public hearings on issues related to environmental justice and sustainable communities ("Environmental Equity" or "EE" Hearings). The purpose of these EE Hearings will be to create a forum for community organizations, neighborhood groups and local leaders to provide advice and direction to State agencies and to Governor on environmental policies that impact minority and low-income families and other affected communities throughout Maryland. From these EE hearings, the Commission, EPA, and MDE hope to identify critical environmental issues facing local communities and best practices for incorporating those concerns into State agency decision-making. The Commission and others plan to convene four to five EE Hearings in a variety of locations around Maryland.

5: Promote Community and Economic Development: The Commission recommends the creation of a vision for economic development in Maryland that takes into account environmental justice, public health, and ecological health, sustainability and community participation. In particular, improve economic development opportunities in low-income communities. Commission members are recommending discussion of innovative approaches that can be adopted to realize the economic potential and capacity across Maryland, parenthetically and particularly within disenfranchised communities while improving the environment, public health, and quality of life. One tool is to

examine the possibilities related to the Environmental Benefits District (EBD) approach. It would encourage the use of State resources to support communities designated by counties and local government as environmentally challenged or higher risk communities.

The EBD approach emphasizes quality of life, economic development, and environmental protection improvements and attempts to optimize limited state resources by collectively addressing concerns in targeted communities. It also attempts to streamline some governance by allowing, where appropriate, communities to sit face to face with several State and or local agencies. This can provide a symbolic one-stop-shop opportunity to resolve concerns and reduce diverging messages. The concept encourages developing a framework that can package a group of strategies capable of encouraging neighborhood revitalization, environmental protection, and economic development, while reducing social and economic concerns, and conflicts in affected communities.

The recommendations, which were developed during the Commission's hearings and monthly meetings, reveal an abundance of opportunities related to addressing the economic and environmental options available to the State of Maryland and its citizens.

PLANNED COMMISSION ACTION ITEMS FOR 2003

1. The planned Commission Actions for 2003 include:
2. Continue to use the CEJSC meetings as official forums for Maryland citizens to comment on environmental justice and sustainable and economic development issues.
3. Enhance the committees' work of the Commission to develop public participation, regulatory, health, and economic development recommendations in the coming year.
4. Develop and implement an environmental justice training program to better prepare State agencies to address issues associated with environmental justice. Establish an environmental justice contact person within each agency
5. Convene a series of public forums on environmental justice and sustainable development around the State. (These forums will be supported by a grant from the U.S. Environmental Protection Agency.)
6. Complete the first draft of the data index tool. Appended is a copy of the data index tool in its current form.

7. Examine the use of alternate dispute resolution (ADR) processes to resolve conflicts.
8. Build and strengthen government of “infrastructure” at local levels to support marginalized communities.
9. Better define the concept and integration of sustainability into the Commission’s work.

CONCLUSIONS

The Commission on Environmental Justice and Sustainable Communities (CEJSC) is focusing its efforts on collaboration, economic building, environmental protection, education, coordination and proactive engagement which can assist in positioning state and local agencies to respond constructively to the challenges facing government, industry, environmental and public health professionals, state, federal regulators, and foremost, our Maryland communities and their residents. Whether it is the redevelopment of an industrial site, a new permit request, or a new facility, involving local community groups early on and asking for their input can go a long way toward reaching consensus and avoiding costly delays toward the end of regulatory processes and reduce the need for legal redress.

The need for collaborative approaches is particularly compelling to address the multifaceted concerns associated with revitalizing communities. There will not be one size fits all solutions. The solutions will come in the form of many efforts like collaboration with businesses, pollution prevention, improved public participation, true partnerships with communities, improved and informed siting decisions, reporting requirements, ADR, screening models, community characterizations and analyses, permitting guidance, improve risk assessment, and better integration into our programmatic efforts and strong effective environmental enforcement.

The State of Maryland enjoys a rich history in its approaches and policies that are targeted toward improving the quality of life for all Marylanders. Protecting its most vulnerable populations and communities has been a cornerstone of these strategies and policies. The vision and foresight to continue innovating in this area is imperative. Maryland’s agencies will lead by example and respond to revitalization and quality of life concerns, not as challenges, but as opportunities to build upon and strengthen all of Maryland communities, consistent with the state’s legacy of inclusion and community revitalization.

The Commission believes that it has been tasked with extremely important work for the State of Maryland and looks forward to working with the Governor of Maryland. The Commission is prepared to help move environmental justice concerns into the mainstream of discussion and community planning procedures. We believe that community vitality and involvement is a practical ingredient to vibrant economic development.

¹ See for examples, Bryant 1995; Bullard 1995; Gleeson, 2000

² See for examples, USEPA; 1992 a-c, USEPA 1995 a-c; USEPA 1995, 1998; Bryant 1995, Bullard 1998,

³ See for examples MACEJ 1998 a-c; MACEJ 1999 a-c

⁴ See MACEJ 1999c; USEPA 2000 for examples

⁵ See MACEJ 1999 a-c for examples

⁶ Commission on Environmental Justice and Sustainable Communities Final Report, 2001. Maryland Department of the Environment.

http://www.mde.state.md.us/Programs/MultimediaPrograms/Environmental_Justice/EJ_Reports/index.asp

⁷ See footnote number 6.

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