

**Maryland State Commission on
Environmental Justice and
Sustainable Communities**

2006 Annual Report

CONTENTS

| | Page |
|--|-------------|
| 1. Background..... | 2 |
| 2. Commission Members..... | 3 |
| 3. Commission’s Activities in 2005-2006..... | 4 |
| 4. Commission’s Projected Activities for 2006-2007..... | 8 |
| 5. Recommendations..... | 10 |
| 6. Apendix A- Testimony to Environmental Matters Committee..... | 13 |
| 7. Appendix B- Operating Principles..... | 18 |

BACKGROUND

The Commission on Environmental Justice and Sustainable Communities (CEJSC) was first established by Executive Order on January 1, 2001 and signed into law on May 22, 2003. The Commission is a fifteen-member body that includes the following representatives: two State legislators, three cabinet secretaries, and ten Governor appointees representing six interests groups— environmental advocacy, public health expert, local government, regulated business, impacted community, and general public with EJ expertise.

The CEJSC is tasked with examining 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. Maryland’s approach to Environmental Justice (E.J.) is consistent with the approach advocated by the United States Environmental Protection Agency (EPA). EPA calls for States to address Environmental Justice issues as appropriate and for improvements in efficiency and sustainability in the use of resources and production processes. EPA defines E.J. 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.

LIST OF COMMISSIONERS
(Serving October 1, 2005- September 30, 2006)

Mr. Scot Spencer, Commission Chair, Annie E. Casey Foundation
(***General Public with EJ Expertise**)

Senator Ulysses Currie, State Senate (***State Legislature**)

Delegate Elizabeth Bobo, House of Delegates (***State Legislature**)

Secretary Kendl Philbrick, Maryland Department of the Environment (***State Agency**)

Secretary McCain, Department of Health and Mental Hygiene (***State Agency**)

Secretary Audrey Scott, Maryland Department of Planning (***State Agency**)

Ms. Rosa Burenstine, Baltimore Community for Environmental Justice, Inc.
(***Impacted Community**)

Christine Dunkerton Esq., Community Law Center (***General Public with EJ Expertise**)

Rev. Dr. Douglas Edwards, Mission of Love Charities (***Impacted Community**)

Mr. Richard Fairbanks (***Impacted Community**)

Mr. Andrew Fellows, Clean Water Action/Council Member, City of College Park
(***Environmental Advocate**)

Ms. Vernice Miller-Travis, Groundwork USA (***Environmental Advocacy**)

Mr. Leonard Parrish, Retired CEO, George Williams Stephens, Jr. & Associates

Dr. Barbara Sattler, University of Maryland School of Nursing
(***Public Health Expert**)

Mr. Bill Stack, Baltimore City Department of Public Works (***Local Government**)

***Representative Stakeholder Group**

COMMISSION ACTIVITIES IN 2005-2006

During the period October 1, 2005 through September 30, 2006, the Commission met nine times and subcommittees held additional meetings and teleconferences to execute activities laid out in their various work plans. Some activities included engagement with the executive and legislative branches of state government; and outreach to local government officials and community residents. The Commission currently has four subcommittees, which include: Land Use and Sustainable Communities, Community Involvement, Environmental Health and Research, and Legislative Review.

(I) Subcommittee Activities

A. Land Use and Sustainability— Vernice Miller-Travis, Chair

The purpose of this subcommittee is to bring more clarity about the relationship between good land-use planning and the growth and development of sustainable communities across the State of Maryland. To date, this subcommittee has:

- Worked to closely monitor the progress and development of the East Baltimore Development Initiative's Demolition and Deconstruction protocol, currently under development through its demolition activities in the Middle East community of Baltimore City.
- Worked to provide information about the work and mandate of the Commission to other stakeholder groups, e.g., the National Trust for Historic Preservation, the Maryland Association of Counties, and the U.S. EPA Annual Brownfields Conference.

During the 2006 General Assembly, numerous bills were put forth calling for intervention on various proposed local land-uses, particularly with regards to the siting of landfills and liquefied natural gas facilities. In light of this, Vernice Miller-Travis, representing the CEJSC, participated in an educational session at the 2006 Maryland Association of Counties' Summer Conference. The session was intended to raise awareness about the relationship between historic and present day land-use planning and its impact on communities across the State of Maryland, particularly those that are vulnerable and disadvantaged; and to create a more positive climate among local officials for the implementation of equitable and sustainable local land-use practices and policies.

B. Community Involvement— Rosa Burenstine, Chair

The purpose of this subcommittee is to enhance public involvement in civic processes and encourage collaboration among all parties in addressing environmental, health, and economic disparities that may exist in some communities. During the course of the year, members of the Community Involvement Subcommittee conducted various community outreach activities including outreach to the Town of Easton.

Commissioners Rosa Burenstine and Andy Fellows met with local representatives of Maryland's eastern shore to learn about pressing community concerns there. The Subcommittee is working to host a community meeting with a couple of eastern shore communities to expand the initial dialogue with selected local officials.

C. Environment and Health Research— Cliff Mitchell, Chair

The purpose of this subcommittee is to use sound health and environmental research to identify and mitigate health and environmental hazards that exist in communities. The health indicators working group consolidated its efforts during the year. Dr. Clifford S. Mitchell, who previously co-chaired the group, moved from the Johns Hopkins Bloomberg School of Public Health to the Maryland Department of Health and Mental Hygiene, where he now leads a 5-year project on environmental public health tracking and the Environmental Health Coordination Program. In this capacity, he and the environmental public health tracking project team, including Dr. Betty Dabney (another member of the working group) have begun to examine the capacity of the state to deliver environmental public health data in a form that would be useful for and accessible to the public, as well as to State agencies.

Another avenue that is being pursued for funding of community characterization project involves a proposal by Dr. Dabney to the U.S. Environmental Protection Agency for a STAR (Science to Achieve Results) grant. This proposal, "Development, Linkage and Validation of Hazard, Exposure and Health Outcome Indices Using Extensive Data Infrastructure and Statistical Tools" was submitted in December 2006. As the name implies, the purpose of the grant is to use a variety of statistical tools to look at a variety of databases in ways that could help to advance the analysis of environmental health data and develop more rigorous indicators.

Ultimately, it is likely that the efforts of the Center for Disease Control (CDC)-funded environmental public health tracking project will enable the State to provide environmental public health data that is relevant to the work of the Commission. This activity is going on actively at DHMH and at the Maryland Department of the Environment (MDE). In the coming year, the Health and Environmental Research working group hopes to focus on implementing a version of community environmental health indicators within the tracking project, and to work more closely with community-based organizations on ways in which environmental public health data may be useful to communities.

D. Legislative Review— Kelly Pfiffer, Chair

The Legislation and Policy Development Workgroup's primary role within the Commission is to review bills introduced during the legislative session, which may have an impact on environmental justice or sustainable community issues. To this end,

Commissioners and others brought numerous pieces of legislation forward for consideration and possible comment by the Commission.

HB 155, which would grant certain community and nonprofit organizations standing to appeal zoning decisions in court, was discussed by the Commission. The Commission submitted a letter supporting S.B. 589 and H.B. 1429 – Environment – Judicial Review of Permits – Standing, which would grant persons standing to appeal MDE permitting decisions in court. Unfortunately, neither of the bills were successful, but the Commission will continue to monitor future proposed legislation in these areas of the law.

The Legislation and Policy Development Workgroup also partnered with the Community Involvement and Intergovernmental Liaison Workgroup to draft a letter to Baltimore City officials requesting a dialogue related to implementing the East Baltimore Development Initiative (EBDI) demolition protocols on a City-wide basis to provide better protection to residents from airborne lead and dust problems related to demolition.

(II) Governor’s Appointments

In March 2006, the Governor’s office formally appointed seven Commissioners to serve on the Environmental Justice Commission. Two of the appointed served as interim Commissioners in 2005. There are currently three vacancies on the Commission requiring representation from the following interest groups, regulated business, health expert, and environmental advocacy.

(III) Meeting With Lieutenant Governor

On April 12, 2006, the Chair, Scot Spencer, along with Secretary Philbrick, Assistant Secretary Stephen Pattison, and Dorothy Morrison visited Lieutenant Governor Michael Steele in Annapolis. Earlier in the year, Commissioners indicated that it was pertinent to bring the Commission and its activities to the attention of the Governor’s Office in order to garner support for the Commission’s activity and potentially obtain resources to further CEJSC work.

(III) East Baltimore Development Lead-Safe Demolition Protocol

Currently two members of the Environmental Justice Commission are actively engaged in the monitoring and development of the East Baltimore Development Initiative (EBDI) Demolition and Deconstruction Protocol. Commissioner Rosa Hart-Burenstine is a member of the public review committee and Commissioner Vernice Miller-Travis is a member of the Independent Expert Panel.

The East Baltimore Development Initiative is an \$800 million revitalization of an 88-acre portion of East Baltimore. Several hundred homes are being demolished and new housing, businesses, and other uses are being built in their place. Many families are being relocated as a result of this project, and the potential existed for very significant levels of lead dust to

be released into the air as a result of the magnitude of demolition activity undertaken by this project.

EBDI is therefore, developing and utilizing a method of demolition and deconstruction activities that is meant to be highly protective of public health and limiting of the amount of lead dust particles that are released into the ambient air.

The Commission has been closely monitoring the development of these protocols and intends to incorporate the findings of this process into guidance and enabling legislation to provide statewide guidance on a safer and more environmentally protective method of building demolition and deconstruction.

(IV) Testimony to Environmental Matters Committee

On February 1, 2006, the Chair, Scot Spencer and two other Commissioners, Assistant Secretary Stephen Pattison and Clifford Mitchell, health expert formerly with Johns Hopkins University gave testimony to the Legislature's Environmental Matters Committee on the mission and activities of the Commission. The testimony is attached as Appendix A.

(V) Operating Principles

A set of draft operating principles were developed by the Chair and circulated to all Commissioners for review. The operating principles were drafted to help focus and guide the work of the Commission as members endeavor to achieve the Commission's mandate stipulated in House Bill 970. A copy of the draft operating principles is attached as Appendix B.

COMMISSION'S PLANNED OBJECTIVES FOR 2006-2007

In the coming year, the CEJSC hopes to continue its involvement in local community projects and to develop concrete action items to effect change in the quality of life of underprivileged communities of concern. Some examples of engaging activities for the CEJSC to pursue are given below.

(I) Interface with the Environmental Benefits Districts (EBD) Program

Since its inception, the CEJSC has been involved with the roll out and implementation of the EBD program, such as the review and comment on the EBD selection process. The CEJSC would like to continue its involvement in this program and assist with assessing progress and feasibility of the program in 2007.

EBDs are places where State government and other stakeholders can focus their financial, technical, regulatory, administrative, policy, and other appropriate resources to foster sound environmental practices, healthy and safe communities, and proactive economic development for targeted communities. The approach intends to encourage more effective 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 facilitate a clear and consistent message. The concept acknowledges that many of the needed programs to protect and revitalize communities are in existence, albeit not focused or coordinated in some cases. EBDs provide the geographic focus and needs identification to make some existing programs more successful.

(II) Strengthen relationship between EBDs and Priority Place/Smart Growth Program

The Priority Place/Smart Growth Program provides coordinated State assistance to development projects that are designated as "Priority Place" by the state. Providing priority consideration for development projects that fall within EBDs should be encouraged during Priority Place project evaluation and designation.

(III) Finalize recommendations on East Baltimore Demolition Protocol

Once finalized, the CEJSC will work to endorse and promote the safe demolition practices recommended in the East Baltimore Demolition Initiative's demolition protocol. Outreach to local code enforcement personnel and trade associations of community developers will ensure awareness and hopefully adoption of the protocol.

(IV) Develop EJ guidance for local governments

In the coming year, select volunteers with a fair amount of EJ expertise will embark on drafting guidance to assist local government with ensuring equitable zoning and land use

practices by incorporating the needs and concern of residents most impacted by any given local land use decision.

The vast majority of environmental injustice claims result when adverse and undesirable land uses are concentrated in communities that have little or no social capital and are therefore underrepresented in civic decision-making processes. Development of the EJ guidance for local government is a huge undertaking. Financial resources would be required to conduct research, compile information and document information in a practical guidebook for government officials.

(V) Identify groups working on local and regional equity issues

The purpose of identifying groups working on local and regional equity issues is to expand the vision and capabilities of the Commission through partnerships and bench marking with a greater universe of players working on EJ and sustainable community issues.

(VI) Secure funding resources for CEJSC's community profile tool

The CEJSC will work in partnership with MDE, DHMH, and University of Maryland to secure funding to further the development of a community profile tool initiated three years ago by the CEJSC Environmental Health and Research Subcommittee. Funding can be pursued through collaborative grant applications and leveraging existing federal funds.

The Community Profile Tool is meant to give a snapshot of a community, to offer a picture of the current health and environmental quality of a community, and to offer some guidance to planners and community members about the potential impacts of, for example, new facilities on environmental quality. It could also be used by a community to discuss how to set priorities for development or amelioration of environmental damage.

RECOMMENDATIONS

The recommendations which follow are directed to various sectors of government to include: the Governor's office, the legislative office, cabinet agencies, and local governments.

GOVERNOR'S OFFICE:

Funds for implementing EJ efforts

The Commission continues to recommend consideration of project funding to more fully develop a Community Profile Tool through state appropriations. Additionally, the Commission may pursue funding opportunities from other sources, such as federal agencies and philanthropic organization. The value of developing a community profile tool is to provide a reference point for various stakeholders, including: the community, state planners, environmental officials, investors, and others to consider when working to address disparate environmental impacts and revitalization communities. The investment in a community profile tool will assist agencies with prioritizing communities in need of assistance and for enhancing a community's ability to access data about the environmental quality of its neighborhoods for planning purposes.

The Commission feels that this is a very small initial investment to provide the citizens of Maryland with basic information so that they can more fully participate as stewards of a healthier future.

STATE AGENCIES:

Statewide prioritizing system to assist marginalized communities

The Commission recommends that all state agencies develop a prioritizing system for their programs to help mitigate the environmental and health impacts in disadvantaged communities. This system would ideally help leverage resources in targeted areas within the state that have been identified as being or face the threat of becoming marginalized. The Maryland Department of the Environment (MDE) is working on implementing Environmental Benefits Districts (EBDs), places where government and other stakeholders can optimize their resources to benefit communities in a proactive way. MDE has identified EBD zip codes in Central and Western Prince George's County and in East Baltimore as pilots. The Maryland Department of Planning is implementing the State's Priority Places framework to enable sound land use practices, economic growth, environmental protection, and community revitalization.

Renewed commitment

The Commission recommends that each state agency demonstrate full commitment to the Environmental Justice and Sustainable Communities initiative by allocating dedicated staff to

this effort cause. Dedicated staff will be responsible for fostering collaboration within their home agency, among other state agencies, and with the Commission on Environmental Justice and Sustainable Communities, to assist communities in need. Dedicated staff will strive to effect change in communities by proactively listening to community concerns; reviewing their agency's programs and policies that may help address community concerns; and implementing strategies that promote environmental health and economic vitality in disadvantaged communities.

LEGISLATURE:

Expansion of Commission's membership

The commission recommends the expansion of state agency appointments to the commission. These should include but may not be limited to the Department of Housing, Department of Business and Economic Development, and Department of Transportation. Currently, the agencies appointed to the commission are the Department of Environment, Department of Health and Mental Hygiene, and Department of Planning. In order to address EJ issues from a holistic standpoint, it will require a collaborative strategy crafted through the involvement of all state agencies because EJ issues are crosscutting in nature and fall under the purview of multiple state agencies as well as the various levels of government. In addition to the increased state agency representations, two more representatives from the community at large are recommended, bringing the total number of Commissioners to 20.

Enabling legislation

The Commission recommends the proposal of enabling legislation, which would encourage mindful, lead-safe demolition activities in Maryland by implementing demolition protocols such as those developed through the East Baltimore Development Initiative for the purpose of eliminating lead contaminated housing and lead poisoning statewide. The Legislation might be adopted as an expansion of existing Brownfields Law.

LOCAL CODE ENFORCEMENT AUTHORITIES:

Lead safe demolition protocol

The Commission endorses the safe demolition practices outlined in the East Baltimore Demolition Protocol and recommends that this protocol be reviewed by local code enforcement agencies and if feasible, be adopted in to local ordinances.

APPENDIX A

Testimony to Environmental Matters Committee

Testimony of Scot Spencer, Chair CEJSC:

Good afternoon Madame Chair and members of the committee.

I am Scot Spencer, Chair of the State Commission on Environmental Justice and Sustainable Communities. On behalf of the commission, I would like to thank you for allowing us to brief you on our activities. We hope to have future opportunities to engage with the committee over time and look forward to you viewing us as a resource to think through questions of human well being in an environmental context.

On behalf of the commission, there are a few things that we would like to discuss with you in our allotted time. As this is our first briefing, we will give you a brief history of the Commission as well as describe its efforts to date. We will talk about the new energy we've developed over the past 18 months and our vision to be a principal leader in thought practice on matters pertaining to EJ and SC. We will give you our perspective on the current discussion on eminent domain and discuss our founding project and seek your assistance to help Marylanders be an even better informed citizenry when it comes to matters of their environmental health. Steve Pattison, Assistant Secretary at MDE who has been an active participant with the Commission will also offer comments from the Department's perspective. Hopefully, we will have time at the end to answer any questions or engage in conversation.

Commission History and Charge

Although it was through the leading sponsorship of Delegate Tiger Davis and the staunch support of this committee that led to the Commission's continued existence by statute, Maryland's recognition of the importance of environmental justice can trace its roots to the Maryland Advisory Council on Environmental Justice (HB 1350, 1997) and its 1999 recommendation for the creation of an "ongoing Environmental Justice/community policy-making commission".

The Commission, originally created in 2001 by executive order was given a series of charges that were upheld in HB 970. Specifically, the Commission is to:

- Advise State Government agencies on environmental justice and community related issues;
- Review and analyze the impact of current state laws and policies on the issue of

environmental justice and sustainable communities;

- Assess the adequacy of state and local government laws to address the issue of environmental justice and sustainable communities;
- Coordinate with the Children’s Environmental Health and Protection Advisory Council on recommendations related to environmental justice and sustainable communities;
- Develop criteria to assess whether communities in the state may be experiencing environmental justice issues; and,
- Recommend options to the governor for addressing issues, concerns, or problems related to environmental justice that surface after reviewing state laws and policies, including prioritizing areas of the state that need immediate attention.

Commission’s Perspective on Environmental Justice

From the outset, the commission has taken a different point of view particularly on the matter of Environmental Justice. For us - and we hope to impress upon policy makers, business leaders, environmentalists and other advocates on either side of the debate about the delicate balance between growth and its consequences and environmental impacts to human and more conventionally considered ecosystems - that environmental justice is the primary lens through which decisions and actions should be made.

Why look through this lens? As a business owner, looking through an EJ lens could spare the legal, public relations and financial expense of protracted community opposition. For the advocacy community, it furthers the argument that people, regardless of circumstance, deserve equal voice and consideration in matters that impact our myriad ecosystems. Furthermore, by including those who are often overlooked by society, this lens can in fact create a larger constituent voice to support changes that are both sustainable *and* inclusive. Policy makers benefit by looking through the lens of environmental justice because, in short, it is the right thing to do; when we protect the least able among us, we will – more often than not – also provide protections for the most able.

Work of the Commission, Request for Support

In its time, the Commission has examined and returned to a few central themes. First is the matter of providing information. From the outset, the Commission created an environmental health indicators work group to craft a data source that could be used by anyone to understand the potential health consequences and impacts in their community. I would like to introduce Commissioner Cliff Mitchell who will offer greater detail on the

parameters and our request to support the creation and maintenance of such a system.

Testimony of Clifford S. Mitchell, Chair, CEJSC Environmental Health Subcommittee:

What we did discover, even in one modest example of the indicators work, is that information can be a great equalizer; this supports our thesis of the environmental justice as a lens approach.

The second theme involves the centrality of land use to the sustainability of communities, neighborhoods, our environment and our economy. We have heard from citizens in Anne Arundel and Prince Georges Counties as well as Baltimore City about the impact of landfills on their communities and their inability to effectively challenge them.

In one instance, the matter of local control impacted a community on the other side of a county line. The community did not have standing in a public process even though the access road to the fill site crossed a county boundary. Your committee heard information on the standing issue last fall. The Commission was prepared to offer its comments on legislation introduced last year; we expect to do so this year when similar legislation is heard.

We have heard from residents of Frederick and Montgomery counties about the proposed siting of power generation plants and the concern that 1) older plant emissions were not being addressed, 2) generation was for profit – mostly outside of Maryland and 3) the plants would draw heavily from the Potomac – despite residential development in the counties and the water demands.

In Baltimore City and Allegany County we heard competing concerns about the proposal to move Supermax to Allegany County. From City residents it was a concern of access to families – remember that even the least able among us have families. From Allegany County residents, the concern stemmed from water – and the capacity of wastewater management. The notion of this issue raised many theoretical questions in the context of environmental justice and sustainable communities including:

- Should the notion of a prison facility as an economic development carrot for a community be part of the state's strategy to revitalize a depressed local economy?
- Does the separation of prisoners – mostly African-American, mostly from disadvantaged circumstances and largely from Baltimore City and the Central corridor – from their families represent a 'disproportionate share of negative environmental consequences' if we indeed consider the human environmental impact of family well-being as part of a sustainable community especially when

there are few viable transportation options for families to access their loved ones?

These are fascinating and complicated questions which compel us to look beyond the historic notion of environmental protection for all of Maryland's citizens; they are questions that the members of the Commission consume with great interest.

The Commission also reviewed the early development of Environmental Benefits Districts. EBD's, as they have been termed, are more tightly centered geographies within Priority Funding Areas. Once determined, EBD's have the opportunity to receive state technical assistance as well as financial assistance from a number of places. To cite one example, the first EBD is greater East Baltimore. The State received a federal grant for low sulphur diesel fuel a full two years in advance of US EPA guidelines to lower emissions on MTA's eastern fleet of buses. The Commission plans to revisit the roll out and implementation of EBD's in order to give MDE advice and recommendations on the program's continuation.

The Commission has newly formed and chaired workgroups – on Environmental Health Indicators, on Community Outreach, on Land Use and on Legislation and Policy Development. The Commission has new and very engaged membership; we would like to thank the Governor's Appointments office for its recent action on our recommendations. If we were to ask the committee for any assistance in this area, it would be with helping to identify people from around the state with the interest and ability to be an active participant in one of the workgroups.

We have and will continue to examine the issue of safe demolition practices. Early in our tenure there were questions about eliminating exposure to lead poisoning. For one commissioner, this issue is literally in her back yard. In part because of this proximity, and an extraordinary opportunity to advance policy based upon real practice, we are examining and anticipate recommending legislation that will create incentives for demolition practices that are more socially responsible and environmentally safe. Early investigation by the Commission on this matter indicates a need for better community education, dissemination of more detailed advanced information about demolition, and a broader enforcement network to ensure that existing practices that ensure a relative amount of human protections are followed. We will continue to examine this issue and would like to report back to you this fall on what we've learned.

Commission's Perspective on Eminent Domain

Thanks in large measure to last year's *Kelo v. City of New London* decision by the US Supreme Court, state and local governments are re-examining their determination of what constitutes "economic development" or "economic benefit" to a local jurisdiction or state and when the government's power should be appropriately used.

Early last year the Governor empanelled a task force on Business Owners Compensation in Condemnation Proceedings; the task force completed its report late last year, and while the Commission has not seen it, we do believe that the original premise of examining the true costs of relocating homes and businesses should be vetted prior to advancement of legislation or promulgation of policies.

Communities that are disenfranchised – due to race, economic status or other historic circumstance – have long had concerns about their fair and just treatment as a result of relocation. Whether it was the Salisbury bypass, Baltimore’s fabled highway to nowhere or residents of East Baltimore in the wake of a community revitalization effort, Wagner’s Point – a poster child at the intersection of environmental justice and eminent domain - there have long been questions whether there is a just compensation for the “root shock” of relocation. Are there adequate supports in place for populations who feel that they have little in the way of recourse, outlet or counsel? Is there an appropriate understanding of the psychological cost of destroying the only community someone may know because it has been determined that there is a higher and better use for the land? When eminent domain and subsequent land use changes effectively legislate the elimination of a business or its customer base, do we know how to calculate stemming that erosion? When we then finally calculate the true costs associated with these actions, do we have any understanding of what fraction of that cost (in dollars, supports, and policies) would have been necessary to reverse or at least stabilize the community’s decline in the first place?

Surely some of these discussions have been going on for more than 30 years, but it has not been until organized advocacy groups supporting small business have significantly raised the bar that others take notice. Tom Saqualla, president of the Maryland Retailers Association is quoted in the Daily Record (January 6, 2006) as saying “[T]here needs to be better compensation for the business owner because unless you own the building you get almost nothing when the government takes it.” African-American communities knew of this disparity early on, now other groups by virtue of age, race, class or some other status have come to realize the need for equitable treatment as a result of involuntary relocation.

The Commission does not dispute the merits of arguments likes those of the MRA and the National Federation of Independent Business’. However, we do think that there is plenty of historic context of the environmental injustice that eminent domain has played throughout government at all levels involving citizens who did nothing more than try to live out their bit of the American Dream that deserves equal merit and attention as you review this issue.

For some time the Commission has indeed struggled to find and articulate its voice. The phrase ‘environmental justice’ evokes an unnecessary wariness to many – in some measure due to a misunderstanding of the term itself. We hope that our lens perspective

will be helpful in alleviating any misconceptions – even if the tenor of our message may sometimes invoke a different reaction. Last year, the Commission had a retreat – in some measure it was to give us an ID check. In a larger sense, it helped renew our vigor to the issues of environmental justice and sustainable communities refocus our attention and give ourselves permission to exert some authority to effectively honor the mission with which we've been charged. Our presence in front of this committee is a part of our new focus.

The Commission stands ready to lend its expertise and passion for equitable and responsible outcomes for the people and places of Maryland; for an appropriate balance between growth and environmental stewardship; for meaningful debate between people who stand to benefit and those who are to be impacted by any actions; and for the sustainability for our existing communities.

Thank you for your time, attention, support and interest.

APPENDIX B

Draft Operating Principles

The Draft CEJSC Operating Principles are as follows:

The Commission shall:

Advise State Government agencies on environmental justice and community related issues.

- The members of the Commission shall, on a regular basis, bring their EJ/SC issues to the table for commission discussion;
- The Commission shall develop majority (and, if necessary, minority) opinions and identify primary and secondary agencies to direct receive and respond to its comments/ recommendations; and
- The Commission shall establish a 60-day response from the agency(ies) for their response to the reports of the Commission. If the Commission, in its deliberations, determines further action needs to be taken by legislature or governor, it shall submit those recommendations in writing to the appropriate recipient.

Review and analyze the impact of current state laws and policies on the issue of environmental justice and sustainable communities.

- The Commission shall establish the following standing subcommittees: Land Use; Community Involvement; Public Health; and Legislative and Policy Development;
- Based upon the ongoing work of the Commission or a special circumstance that is brought to the Commission, each of the subcommittees will devise means and measures to evaluate impacts of laws, regulations and policies, within the scope of their area of focus;
- The Commission shall, using those means and measures, seek to establish minimum and maximum impact standards against which application will be analyzed.
- The Commission will report its findings, by topic, regulation, statute or policy to appropriate agencies and administrative and legislative leadership.

Assess the adequacy of state and local statutes and ordinances to address the issue of environmental justice and sustainable communities.

- The Commission shall, on an annual basis, identify an area of interest (for example: landfill permitting) and will, through its regular meetings, subcommittee deliberations, or other fact finding opportunities, seek to understand the roles and

- authorities of each governmental body, jurisdiction and stakeholder;
- The Commission shall report and publish its findings and offer recommendations for remediation of laws, which it deems inadequate to the elimination of environmental injustice or threatening to sustainable communities.

Coordinate with the Children’s Environmental Health and Protection Advisory Council (CEPHAC) on recommendations related to environmental justice and sustainable communities.

- The Commission shall participate in regularly scheduled meetings of the Children’s Environmental Health and Protection Advisory Council and invite representatives from the same to participate in CEJSC meetings.
- To the extent feasible, the Commission shall share and deliberate over late breaking research information.

Develop criteria to assess whether communities in the state may be experiencing environmental justice issues.

- A challenge that remains for the Commission is the development of a set of working criteria that could be used by the Commission and others to define and resolve environmental justice issues. The working group on health and environmental research may use the indicators process to contribute to such a set of criteria, but the criteria will probably incorporate other, non-health measures as well. For example, the criteria might include measures of development, social and political capital, and other non-environmental, non-health measures.

Recommend options to the governor for addressing issues, concerns, or problems related to environmental justice that surface after reviewing state laws and policies, including prioritizing areas of the state that need immediate attention.

- The Commission shall review and provide periodic recommendations on the implementation of the Environmental Benefits District (EBD) Program.

