

February 13, 2002

Monica L. Abreu Conley
Environmental Justice Coordinator
Office of Environmental Justice, 14th Floor
New York State Department of
Environmental Conservation
625 Broadway
Albany, New York 12233-1500

Re: DEC Environmental Justice Policy

Dear Ms. Conley:

On January 2, 2002, the Environmental Justice Advisory Group ("Advisory Group") released its Recommendations for the New York State Department of Environmental Conservation Environmental Justice Program ("Recommendations"). These Recommendations took the Advisory Group two years to prepare. During this time, other than the public meetings held in the Spring 2000, there were no communications between the Advisory Group and the public as to the progress of the report.

On August 29, 2000 New York Lawyers for the Public Interest submitted comments to the Advisory Group. Our comments were either completely disregarded, glossed over or watered down in the Recommendations submitted by the Advisory Group. Consequently, we refer the Advisory Group to our August 29th comments to ascertain the priorities that we believe the DEC should adopt when developing an environmental justice policy.

The Advisory Group was tasked with "developing recommendations for an Environmental Justice Permit Policy for New York State; recommending elements which should be included in a comprehensive environmental justice plan; and prioritizing environmental justice issues and recommending procedures which can be used to address these priorities." See <<http://www.dec.state.ny.us/website/-ej/advisorygroup.html>>. However, the Recommendations are far from "comprehensive," and do not prioritize environmental justice issues. The overall tone of the Recommendations is problematic. Communities are living with unbelievable environmental injustices that are ignored by the State agencies responsible for protecting the health and environment of all communities in the State of New York. The Recommendations should have both recognized the severity of the problem and tackled the issue with specific directions that State agencies must follow.

For example, the Advisory Group's lack of attention to the issue of cumulative impacts demonstrates how little the Advisory Group has accomplished over the last two years. The fact that the DEC does not consider cumulative impacts when assessing environmental impacts under SEQRA goes to the heart of environmental justice. The Recommendations try to justify the omission by stating that, "in-depth deliberation of such a complex issue was not possible at this time given the group's sizable mandate to develop comprehensive recommendations for incorporating environmental justice issues into the DEC permitting process." Recommendations at 16. In other words, the Advisory Group in fact decided not to develop comprehensive recommendations by leaving out any suggestions on a central concept of environmental justice (the two "suggestions" listed under the cumulative impacts section are throw-away ideas without any real meaning).

In stark contrast to the Advisory Group, EPA's New England Region has created an Urban Environmental Initiative that seems to understand the centrality of cumulative impacts with regards to environmental justice. In their Five Year Report, they conclude,

EPA must develop a creative and holistic strategy grounded in the principles of environmental justice and smart growth to create safe and healthy urban communities for future generations across America. Cumulative risk is a result of the panoply of pollution sources that represent vast residual risks uncontrolled by current environmental regulations. Environmental justice is manifested through cumulative risk, compounded by social and economic inequities and unsustainable growth practices. Agents of Change: Making the Vision a Reality, Urban Environmental Initiative, EPA New England.

Aside from ignoring the issue of cumulative impacts, the Recommendations fail to address other critical issues by simply suggesting that the DEC should further investigate these matters. If the Recommendations are purported to be "comprehensive," then there is no reason why the Advisory Group did not investigate these issues itself and offer concrete suggestions for improvement. Rather, the Recommendations often state the obvious broad problems and offer little guidance. Most of the problems mentioned are hardly "rocket science."

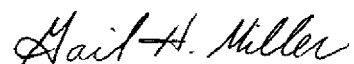
For instance, the Recommendations states, "The DEC should review its public notice and public participation procedures and enhance as appropriate to include early and regular public involvement throughout the permit process and enable meaningful participation by minority or low-income communities." Recommendations at 8. This has been proffered by environmental justice communities for years. There is nothing novel or complicated about this matter that should have been resolved ages ago.

The letter attached to the Recommendations submitted by Arbor Hill Environmental Justice, Justicia Ambiental Latina, League of Conservation Voters, Touro

Law School, and West Harlem Environmental Action succinctly posits a number of necessary concrete suggestions. We support all 17 suggestions put forth in that letter. Without including those additional recommendations, the Advisory Group will fail in its mission.

Please feel free to contact us regarding any further comments you may require.

Sincerely,

A handwritten signature in cursive script that reads "Gail H. Miller".

Gail H. Miller
Staff Attorney

E. Gail Suchman
Senior Environmental Counsel