

THE WHITE HOUSE

WASHINGTON

February 18, 1994

MEMORANDUM FOR CAROL RASCO
BRUCE REED
KATHI WAY
BILL GALSTON

FROM: BRIAN BURKE BB (B)

SUBJECT: THE ENVIRONMENTAL JUSTICE EXECUTIVE ORDER AND
RECOMMENDED NEXT STEPS

Recommended Next Steps

The Environmental Justice Executive Order (signed by the President on February 11, 1994; Attached) designates DPC and OEP to oversee an Interagency Working Group, which will be chaired by EPA. The Executive Order requires that the Working Group and its participating agencies submit reports and strategies (described below) to the President through DPC and OEP. To assure the interagency process functions as planned, I suggest we proceed as follows:

- DPC meeting to discuss the substance of the Order, ideas for the operation of the Work Group and the timetable to be followed prior to the first Working group meeting in three months;¹
- Schedule a meeting with Carol Browner and Katie McGinty to discuss the operation of the Working Group, the proposed timetable and other operational concerns.

¹ The Executive Order deadlines are as follows:

- 5/11/94: Convene Interagency Working Group. 1-102(a)
- 6/11/94: Agencies identify an internal administrative process for developing a strategy. 1-103(b)
- 8/11/94: Agencies deliver Working Group with outline of proposed strategy. 1-103(c)
- 12/11/94: Agencies deliver proposed strategy to Working Group. 1-103(d)
- 2/11/95: Finalize strategy and schedule for implementing projects in the strategy. 1-103(e)
- 4/11/95: Working Group report to President due. 1-104

Background

Historically minority and low income neighborhoods have borne disproportionate human health and environmental risks from pollution. The General Accounting Office (GAO) and the United Church of Christ (UCC) conducted the first and most widely known studies on this problem. The GAO study looked at the four offsite hazardous waste landfills in EPA Region IV.² The results showed that communities of low income, African-American people host three of the four hazardous waste landfills. The small size of the study precluded any wide-scale conclusions about the problem. However, it prompted the UCC to conduct its much broader study which found that race was the single greatest factor in determining where hazardous waste was likely to be located.

The National Law Journal (NLJ) studied the issue and published results of several studies in its September 21, 1992 issue which illustrated disparities in environmental law enforcement among white, minority and low income communities. After studying every federal environmental lawsuit resolved in the seven years prior to the article, and every residential toxic waste site in the 12 year history of the Superfund program, the NLJ concluded that EPA enforcement procedures discriminate against minorities. The findings concluded that:

- It took 20% longer for advanced hazardous waste sites in minority communities to be placed on the National Priority List;³
- Minority areas wait the longest for a federal response to hazardous waste complaints, low income communities wait almost as long;

EPA published a study in 1992 which concluded that death and disease rates differ by race, but the study stopped short of linking that result with racial differences in pollution exposure. The full nature and extent of the problem is unknown.

² The GAO report defines offsite landfills "those not part of or contiguous to an industrial facility".

³ The National Priorities List is EPA's list of the most serious uncontrolled and abandoned hazardous waste sites identified for possible long-term remedial action under Superfund.

The Executive Order

To address this issue, the President promulgated the Environmental Justice Executive Order⁴ which will help to close the gaps by providing more data collection, analysis and dissemination of information. In addition, it will change how agencies view programs and activities which disproportionately affect minority and low income people, including Indian Tribes. The Order directs federal agencies to review all programs and activities which substantially affect human health or the environment and to identify those which disproportionately and adversely impact upon low income and minority populations. (Section 1-101). One year after review begins, the agencies will submit a strategy describing how they will change the conduct of their programs and activities so that they do not exclude participation by, deny benefits to, or discriminate against persons or populations because of their race, color or national origin. (Sections 1-103(e) and 2-2). Each agency will collect and analyze data about the race, national origin and income level of those affected by their programs and activities, including cumulative effects. (Sections 3-301(b) and 3-302(a)). All agencies will also work to improve public participation in programs and access to information relating to human health and the environment. (Section 5-5). An Interagency Working Group (as mentioned above) will oversee and provide guidance to the agencies as they develop their strategies. (Section 1-102(a) and (b)). DPC and OEP, will be responsible for reporting progress to the President and, with EPA, for providing the agencies with effective criteria. (Section 1-104).

The President signed this Order to coincide with a major Environmental Justice conference held in Washington, sponsored by EPA, NIH, CDC, and ATSDR, and invited the leaders of the environmental justice movement to attend the signing, including Ben Chavis (NAACP), John Adams (NRDC) and Charles Lee (UCC). The Vice President, who sponsored legislation on this topic in 1992 and worked with these communities for many years, also attended the signing ceremony. The Order has been well-received by the environmental justice community, the environmental community and the press (Articles Attached). In fact, generally,

⁴ While other terms have been used to describe this phenomenon, notably environmental racism and environmental equity, "justice" is often the preferred term because it reflects the theory that when decisions are made which cause these concentrated impacts, an injustice occurs which goes beyond environmental wrongs and into the civil rights arena.

support has been forthcoming from Congress, the NGA⁵, and industry as well.

DPC's Function

The scope of this executive order is far wider than may appear at first glance. In fact, a wide variety of agencies⁶ and issues are covered, including, civil rights, health care, environmental, intergovernmental, transportation, education, etc. DPC has the opportunity to assure that the implementation of the order is accomplished in the most efficient manner.

At a minimum, programs, policies, planning and public participation processes and enforcement related to human health and the environment must: (1) promote enforcement of all relevant statutes; (2) ensure greater public participation; (3) improve relevant research and data collection; and, (4) identify differential patterns of consumption of natural resources among different populations. (Section 1-103(a)). Without DPC input, there is no guarantee agencies will comply in a substantial, useful and timely manner.

The following are a few policy areas where the Executive Order overlaps with other DPC issues:

- Health Care: Studies show even small exposures to lead (especially paint) can cause health and mental problems, particularly in children. People residing near industrial plants or incinerators breathe in smokestack releases and retain the pollutants on their skin and clothes. Often various hazards occur in the same neighborhoods, but are considered separately during permitting procedures. The impact of multiple exposures must be considered in order to measure the health effect, including the health effects of transportation decisions, community development programs and subsistence living.
- Transportation: When highway planning results in decisions to place highways in minority and low income neighborhoods, the neighborhood character is destroyed and the people are exposed to higher air pollution levels. In addition, pollutants settle on the soil,

⁵ NGA suggested that States, facing the same problem with their agencies, may use the President's Executive Order as a model.

⁶ At a minimum, HHS, HUD, DOT, USDA, DOD, DOJ, OMB, Labor, Commerce, Energy, EPA, Interior, the Office of Science and Technology Policy, NEC and CEA will sit on the Working Group.

creating the possibility of exposure through dermal absorption and ingestion.

- Tribal/Indian Rights: Tribal peoples depend on subsistence consumption of fish, wildlife and crops to a greater degree than the population as a whole. Toxic levels, which are set with average consumption in mind, may not be safe when larger amounts are consumed. The effect on tribal peoples is unknown, but higher disease rates are suspected. (See L.A. Times article, Attached).
- Civil Rights: If the NLJ study is correct, then minorities and low income people are not receiving equal protection of the law. Environmental, health and other related legal areas such as housing and occupational safety laws must be equally enforced.
- Enterprise Zones: Economic and community development includes improving the health and environmental quality in zoned areas. People with limited employment opportunities may feel compelled to accept any job with decent wages, even jobs which may imperil their own health and safety, or that of local residents. Further, employees may be unaware of job hazards. Strategic plans should endeavor to create clean, safe jobs which do not carry high health and environmental risks for the employees, their families or local residents.
- Housing: Studies show minority populations are more likely to have elevated blood lead levels than other groups, regardless of income level. Because minorities experience housing discrimination, they often remain in poorer housing stock, which is more likely to contain peeling lead paint and lead pipes.

Conclusion

I suggest we meet sometime in the next week to discuss the issues raised in this memo.

THE WHITE HOUSE
WASHINGTON

Brian - fyi
Mike - fyi

February 11, 1994

MEMORANDUM FOR THE PRESIDENT

FROM: KATIE MCGINTY 
CC: THOMAS MCLARTY
SUBJECT: OEP WEEKLY REPORT

ENVIRONMENTAL JUSTICE

This morning (2/11) you signed the Executive Order on Environmental Justice, which was well received by both the Hill and environmental justice leaders. This initiative has received very good press from the New York Times, as well. EPA Administrator Carol Browner will now convene an interagency working group to oversee implementation of the order. The working group will report to you through Carol Rasco and me. Stakeholder participation in implementation of the order will be critical.

THE ENVIRONMENTAL BUDGET

The budget released on Monday has been receiving broad and enthusiastic support from the environmental community. An AP wire story contained this description:

From spending more money to protect wetlands, rivers and lakes to getting Americans to burn less oil instead of drilling for it in an Arctic refuge, the Clinton proposals brought praise Monday from environmental leaders.

'This is an earth budget,' said Ralph DeGennaro of Friends of the Earth.

Peter Berle, President of the National Audubon Society, called the budget 'refreshing' and said that it 'reflects the commitment the Administration seems to be making' toward environmental protection. 'We feel very good about it.'

OEP will be working closely with OMB, Congressional Affairs, and the agencies to ensure that the priorities in the budget are reflected in the Congressional appropriations process.

CLIMATE CHANGE

OEP coordinated final policy negotiating instructions for the State Department delegation to the 9th Session of the International Negotiating Committee in Geneva. The U.S. position, that the existing climate convention does not adequately address the long-term threat of global climate change, was supported by all OECD countries except Australia.

CALIFORNIA FEDERAL IMPLEMENTATION PLAN (FIP)

Under a February 14 court appointed deadline, EPA will announce the California FIP and begin a process of negotiating with state, local, and private sector stakeholders to replace the controversial FIP measures with elements of an approvable State Implementation Plan (SIP).

PACIFIC SALMON

OEP coordinated the Commerce Department's announcement last Wednesday on Capitol Hill of a very complex five year plan for protecting the endangered salmon stocks of the Columbia and Snake Rivers. The issue of salmon dwarfs spotted owls in terms of potential impacts on the Northwest. Given the degree of your investment in solving the spotted owl problem, ensuring that the salmon issue is worked out properly is very important: a war on salmon could bring to naught all your good efforts thus far in solving these tough natural resource problems. The recently announced plan was generally well received by the delegation as representing a credible and responsible approach to a difficult problem, and the press was favorable. We have pushed hard to open the consultation process under the Endangered Species Act to include the states in the region, and they are now reviewing the five year plan before we promulgate it in final form (in a couple of weeks).

FORESTRY

Next week the Northwest delegation is hosting a Watershed conference in Tacoma, Washington, which the Vice President and other Administration officials will attend. Given the fact that we are only several weeks away from releasing your final forest plan, the event will be closely watched throughout the region. A major speech by the Vice President will drive home the fact that you have followed through on last year's commitment to the region to do everything you can to solve these problems and to outline the broad framework of what is to come. We expect a positive reception to the event.

DIRECTOR'S MEETINGS

PAST WEEK

- 2/7 Meeting with the Vice President and Paul Tudor Jones regarding Florida everglades issues.
- 2/7 Budget briefing with OMB, OVP regarding environment and natural resource issues.
- 2/8 Meeting with Gerry Galloway regarding the Interagency Flood Plain Management Review Committee.
- 2/8 Meeting with the Vice President and Jack Gibbons regarding environmental technology strategies.
- 2/9 Meeting with the Alliance to Save Energy regarding environmental budget issues.
- 2/10 Print Roundtable -- met with reporters from key newspapers regarding general environmental issues.
- 2/10 Speaker at the Environmental Justice Health Symposium -- "Partnering for Solutions: Opportunities for and Impediments to Interagency and Intergovernmental Cooperation."
- 2/10 Working dinner with Maurice Strong (Ontario Hydro), Tim Wirth, John Kerry, Tom Lovejoy, Teresa Heinz and Alicia Barcena.
- 2/11 Meeting with Administrator Browner and OMB regarding process for Superfund and Clean Water reauthorization.

THIS WEEK

- 2/14 Meeting with Congressional Affairs and DOI regarding grazing issues.
- 2/14 Co-chairing Interagency Meeting with Alice Rivlin regarding federal facilities.
- 2/14 Meeting with Bo Cutter and Jack Gibbons on interagency group to propose beyond 2000 workplan.
- 2/15 Meeting with the Vice President and National Service and environmental leaders regarding the National Service Program.
- 2/16 Watershed Conference in Takoma, Washington.
- 2/17 Meeting with National Congress of American Indians regarding environmental issues.
- 2/18 Meeting with IIEC representatives regarding environmental technologies.

bill

THE WHITE HOUSE

WASHINGTON

February 11, 1994

MEMORANDUM FOR THE HEADS OF ALL DEPARTMENTS AND AGENCIES

SUBJECT: Executive Order on Federal Actions to Address
Environmental Justice in Minority Populations
and Low-Income Populations

Today I have issued an Executive order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. That order is designed to focus Federal attention on the environmental and human health conditions in minority communities and low-income communities with the goal of achieving environmental justice. That order is also intended to promote nondiscrimination in Federal programs substantially affecting human health and the environment, and to provide minority communities and low-income communities access to public information on, and an opportunity for public participation in, matters relating to human health or the environment.

The purpose of this separate memorandum is to underscore certain provision of existing law that can help ensure that all communities and persons across this Nation live in a safe and healthful environment. Environmental and civil rights statutes provide many opportunities to address environmental hazards in minority communities and low-income communities. Application of these existing statutory provisions is an important part of this Administration's efforts to prevent those minority communities and low-income communities from being subject to disproportionately high and adverse environmental effects.

I am therefore today directing that all department and agency heads take appropriate and necessary steps to ensure that the following specific directives are implemented immediately:

In accordance with Title VI of the Civil Rights Act of 1964, each Federal agency shall ensure that all programs or activities receiving Federal financial assistance that affect human health or the environment do not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin.

Each Federal agency shall analyze the environmental effects, including human health, economic and social effects, of Federal actions, including effects on minority communities and low-income communities, when such analysis is required by the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. section 4321 et seq. Mitigation measures outlined or analyzed in an environmental assessment, environmental impact statement, or record of decision, whenever feasible, should address significant and adverse environmental effects of proposed Federal actions on minority communities and low-income communities.

Each Federal agency shall provide opportunities for community input in the NEPA process, including identifying potential effects and mitigation measures in consultation with affected communities and improving the accessibility of meetings, crucial documents, and notices.

The Environmental Protection Agency, when reviewing environmental effects of proposed action of other Federal agencies under section 309 of the Clean Air Act, 42 U.S.C. section 7609, shall ensure that the involved agency has fully analyzed environmental effects on minority communities and low-income communities, including human health, social, and economic effects.

Each Federal agency shall ensure that the public, including minority communities and low-income communities, has adequate access to public information relating to human health or environmental planning, regulations, and enforcement when required under the Freedom of Information Act, 5 U.S.C. section 552, the Sunshine Act, 5 U.S.C. section 552b, and the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11044.

* * *

This memorandum 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.

William D. Clinton

Presidential Documents

Title 3—

Executive Order 12898 of February 11, 1994

The President

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 extent 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 rulemakings 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.

Sec. 2-2. 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 popu-

lations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

Sec. 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.

Sec. 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.

Sec. 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.

Sec. 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 noncompliance of the United States, its agencies, its officers, or any other person with this order.

William Clinton

THE WHITE HOUSE,
February 11, 1994.

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Editorial note: For the memorandum that was concurrently issued on Federal environmental program reform, see issue No. 6 of the *Weekly Compilation of Presidential Documents*.

Clinton to Order Effort to Make Pollution Fairer

By JOHN H. CUSHMAN Jr.
Special to The New York Times

WASHINGTON, Feb. 9 — The Clinton Administration is about to order all Federal agencies to insure that their programs do not unfairly inflict environmental harm on the poor and members of minorities, officials said today.

An executive order to be signed within days by President Clinton would require every agency to come up with a comprehensive strategy to redress and prevent such inequities, which until recently were rarely considered in setting Federal policies.

The order would govern programs as diverse as the removal of lead from public housing, pollution control in urban rivers, the licensing of hazardous-waste incinerators, the exposure of farm workers to pesticides and the setting of health standards for contaminants found in game and fish.

In planning Federal programs, enforcing pollution laws and writing regulations, agencies will have to make sure that all segments of the population have equal opportunities to make their views known and to benefit from the results.

Among the most prominent programs that would be affected is the Superfund, which helps pay for the cleanup of toxic-waste sites, many of which are in depressed urban areas populated mainly by racial minorities. Under the order, the Superfund program would have to correct disparities in the pace of cleaning up those sites.

For years, researchers in the civil rights movement have been collecting evidence suggesting that the poor, in general, and minorities in particular, suffer disproportionately from exposure to toxic pollution and that the environmental needs of their communities are not being fairly addressed.

But legal and political remedies have proved elusive, and much remains to be done to demonstrate exactly how the unequal effects of pollution are felt.

The Administration's action, spelled out in a draft of the executive order, will govern "any Federal program or activity, or any Federal action, that substantially affects human health or the environment."

Executive orders are not laws to be enforced by the courts but are instructions from the chief executive to the top officials throughout the executive branch of the Government, who serve at the President's pleasure.

The policy is intended to promote cooperation among agencies not always immersed in environmental matters, like the Department of Housing and Urban Development, which, for example, oversees efforts to remove lead paint from public housing.

"This is a problem that cannot be solved by any one agency," said Carol M. Browner, the Administrator of the Environmental Protection Agency, perhaps the agency most affected by the order. "The executive order will be an important step to solving the problem, but it is going to take a lot of work with a lot of people."

Deadlines Are Set

Although the executive order does not set forth detailed prescriptions for specific actions to be taken by Federal agencies, it establishes a deadline of one year for each agency to complete its own strategy under the supervision of the White House, which drafted the order. The strategies are supposed to cover the agency's objectives and enforcement mechanisms.

"It's not the whole resolution, by any stretch of the imagination, but it does represent a sound beginning," said Deohn Ferris of the Lawyers Committee for Civil Rights.

The executive order calls, for the first time, for the collection and analysis of census and pollution data by agencies throughout the Government. Two years ago, a Federal study published by the Environmental Protection Agency found that "racial minority and low-income populations experience higher than average exposures to selected air pollutants, hazardous waste facilities, contaminated fish and agricultural pesticides," a finding it described as "a clear cause for health concerns." But that study complained that there were not enough data to completely address the concerns.

In one exception where there is ample information, epidemiologists demonstrated decades ago that blacks face greater health risks from lead poisoning than whites. The exposure, largely from old paint, has been attributed to housing discrimination and inadequate public housing.

The Administration, which has been working on the executive order for a year, is addressing an issue that over the years has been variously described as "environmental racism" and "environmental equity."

In recent months, the Administration has opened investigations into whether states violated the Civil Rights Act by granting permits to companies for hazardous-waste operations in minority areas.

After opponents of a hazardous-waste treatment plant appealed one such case to Federal regulators under the Civil Rights Act, Louisiana decided last month to reject the application for Supplemental Fuels Inc. to build the plant in the Carville area. The state said concerns about possible racism had been a factor in the decision.

LEVEL 1 - 8 OF 14 STORIES

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THE DALLAS MORNING NEWS

February 11, 1994, Friday, HOME FINAL EDITION

SECTION: NEWS; Pg. 5A

LENGTH: 615 words

HEADLINE: Federal agencies focus on achieving environmental justice

BYLINE: Randy Lee Loftis, Environmental Writer of The Dallas Morning News

DATELINE: WASHINGTON

BODY:

WASHINGTON - Federal agencies launched an unprecedented effort Thursday to let minorities help shape anti-pollution actions in their communities.

The opening of a three-day conference on health research and environmental justice drew more than 1,000 scientists, officials and neighborhood organizers from across the country, twice as many as planners expected.

Environmental justice is usually defined as ensuring that poor people or minorities don't bear an undue share of pollution's toxic effects. Numerous studies have demonstrated that hazardous waste sites, factories and other potential threats are concentrated in minority communities.

But little research has been done to pinpoint the pollution's health effects. Federal health and environmental agencies invited community organizers to the conference to lay out their concerns.

Agencies have begun handing out grants to researchers studying disadvantaged communities. Using one such grant, scientists at Tulane and Xavier universities will study lead poisoning, respiratory illness and chemical exposures in the Mississippi River delta area.

Gaps in scientific knowledge about pollution and minority health are huge, many conference participants said.

"The truth is we know that communities have been exposed," said Dr. Kenneth Olden, director of the National Institute of Environmental Health Sciences, an arm of the National Institutes of Health. "We don't know if there's necessarily a correlation to disease."

In hundreds of cases around the country, however, community organizers have gathered stories of neighborhoods studded with pollution sources. Typically, these areas have lacked the political clout to stop the pollution.

Rose Marie Augustine, a community organizer from Tucson, Ariz., described life in a neighborhood where chemicals from a Hughes Aircraft plant contaminated drinking water wells.

"Those of us who live in the area were never informed," Ms. Augustine said. "We bathed in it and cooked with it for 40 years."

THE DALLAS MORNING NEWS, February 11, 1994

The area has been a federal Superfund site since 1981.

Federal officials acknowledge that the government's interest in such human health concerns is new. Because few questions were asked in the past, they said, serious problems weren't investigated or were glossed over.

In Triana, Ala., no one tracked the long-term health of 20,000 black residents exposed to extremely high levels of the banned pesticide DDT decades ago, according to Dr. Devra Davis, a federal environmental health adviser. "So we have no idea what long-term studies would have shown."

In a keynote speech, the executive director of the NAACP said preventing environmental racism has become a mainstream civil rights issue.

"We must have the same passion about environmental justice as we had about voting rights," Dr. Ben Chavis said. "The same forces that are destroying the ozone layer are destroying the (human) layers in our communities."

The conference marks the first time that federal science agencies have asked such a wide range of civil rights and grass-roots groups to help write the pollution research agenda.

Senior White House advisers and agency officials at the meeting said the Clinton administration is committed to preventing minorities from bearing an undue environmental burden.

One of those who said the conference gave him a voice in Washington was Luis Sepulveda, president of the West Dallas Coalition For Environmental Justice. He was among several residents of the lead-contaminated community who attended the meeting.

"Five years ago, minority people would not have been invited to a conference like this," he said. "Now somebody might be listening."

GRAPHIC: PHOTO(S): Dr. Ben Chavis.

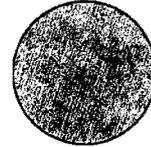
LANGUAGE: ENGLISH

LOAD-DATE-MDC: February 12, 1994

THE WHITE HOUSE

WASHINGTON

September 30, 1993



MEMORANDUM FOR KATIE MCGINTY
OFFICE OF ENVIRONMENTAL POLICY

FROM: BRIAN BURKE^{BB}
DOMESTIC POLICY COUNCIL

SUBJECT: EXECUTIVE ORDER ON ENVIRONMENTAL JUSTICE

As we discussed, environmental justice remains a priority issue for many low income minority, urban, rural and tribal communities in America. Consequently, representatives from a variety of organizations, including the Congressional Black Caucus, the Southwest Network for Environmental and Economic Justice, the Lawyers Committee for Civil Rights, and the National Congress of Indians have called to discuss their environmental justice concerns in the context of Health Care Reform, Empowerment Zones, Superfund reauthorization, Clean Water Act reauthorization, Safe Drinking Water Act reauthorization, and rural development.

Therefore, to assure that the Administration remains in front on this matter, we should meet and discuss the following issues: (1) the status of the environmental justice executive order; (2) the White House role in the environmental justice effort; (3) the role of the existing EPA chaired Federal Interagency Environmental Equity Task Force; (4) outreach strategy, and; (5) the executive order signing event. Schedules permitting, I will arrange a meeting for sometime next week.

cc: Carol Rasco

THE WHITE HOUSE

WASHINGTON

January 11, 1994

MEMORANDUM FOR KATIE MCGINTY
LINDA BREGGIN

FROM: BRIAN BURKE *BB*

CC: CAROL RASCO

SUBJ: Comments on the DRAFT-December
Environmental Justice Executive

JAN 12 REC'D

Generally, the Executive Order reads well and is a dramatic improvement over the first drafts circulated by EPA six months ago. We need to discuss the process for advancing this Executive Order, soon. In addition to the DPC comments provided over the past six months, we have the following:

- Page 2, 1-103(a): the last sentence of this section should be rewritten to reflect that the Working Group will report to OEP and the Domestic Policy Council. (Other White House offices may also be appropriate). This executive order has considerable domestic policy implications affecting a variety of issues, including but not limited to, tribal governments, health care, and civil rights.
- Page 2, 1-101: the section heading "Federal Mandate" should be changed to "Agency Responsibility." The entire document is a "mandate" by definition.
- Page 2, 1-103(a): I am concerned about the first sentence of this part as it is unusual for a President to order himself to do something. Is WH Legal Council's office comfortable with this?
- Page 3, 1-103(b)(2): HUD should be added here because it administers several significant programs including the lead based paint program and other economic development/health related programs that are well established and targeted for exactly the populations addressed by the Executive Order.
- Page 4, 2-201: the last sentence should read "...because of their race, color, ethnicity or national origin.
- Page 4, 2-202: the word ethnicity should be inserted in the second-to-last sentence, so that it is consistent with the preceding comment.

• Page, 3-302(a): I am concerned that this section is ambiguous and (1) may result in each federal agency developing its own data collection methodologies, and (2) existing data may be used when it is not appropriate. What do the health agencies (ATSDR, NIOSH, and NIH) think about this?

• Page 7, 6-606: I think that the last word in this section ("communities") is too broad. Is a native American community 6-9 people living together in Manhattan? Does Justice have any comments on this?

• Page 7, 6-606: Insert "nor does it" after "is not intended to" in the first sentence of this section.

EXECUTIVE ORDER

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

WHEREAS, all populations and all persons across this nation are entitled to a safe and healthful environment;

WHEREAS, each Federal agency should make environmental justice a priority by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects on minority populations and low income populations;

WHEREAS, each Federal agency, in the implementation of its policies, should ensure that minority populations and low income populations have adequate access to public information and key public planning decisions related to human health or the environment;

WHEREAS, each Federal agency should encourage, and where appropriate require, States, Tribes, local agencies and other non-federal agencies to review delegated or authorized programs, Federally funded programs, and implementation of permitting programs to reflect the priorities set by this Order;

AND IN ORDER TO:

Ensure that the Federal Government is a leader in the effort to improve the environmental quality of life for all populations in the United States, including minority populations and low income populations, by ensuring that the management of its facilities, the establishment of its policies, the planning and implementation of its actions, and the enforcement of environmental and civil rights laws promote environmental protection for all;

Improve Federal research and data collection efforts on health and the environment to ensure that such efforts consider disproportionate and adverse effects of environmental hazards on minority populations and low income populations;

Identify the need for ensuring protection of individuals and groups with differential patterns of use and consumption of natural resources for food and subsistence; and

Involve minority populations and low income populations in the decision-making process relating to Federal activities affecting human health or the environment and make public information accessible to these communities;

DRAFT-December 28, 1993
NOT FOR DISTRIBUTION

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

Section 1-1. Implementation

1-101. Federal Mandate

To the greatest extent 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, the disproportionately high and adverse human health and environmental effects of Federal activities on minority populations and low income populations.

1-102. Funding Responsibilities

Each Federal agency shall place priority on obtaining funding and resources needed for implementing this Order, including the environmental justice strategies and assessments required by this Order, by identifying, requesting, and allocating funds through line-item or direct funding requests. Federal agencies shall make such requests as required through agency budget requests as outlined in Office of Management and Budget Circulars A-106 and A-11 respectively.

1-103. Creation of Interagency Working Group on Environmental Justice

(a) Within three months of this Order, the President will appoint [a senior administration official] [a senior official from the Environmental Protection Agency] to convene and conduct an interagency Federal Working Group on Environmental Justice, hereafter referred to as the Working Group. The Working Group will be composed of at least one senior official designated by the head of each appropriate Federal agency that conducts environmental programs or activities or undertakes actions with potential to affect human health or the environment. It shall also include agencies whose expertise in addressing environmental justice would be important to the Working Group. The Working Group shall report appropriate Federal activities to the President through the White House Office on Environmental Policy, a representative of which shall also sit on the Working Group.

(b) The Working Group shall --

(1) coordinate with, and serve as a clearinghouse to, each Federal agency on its strategy to ensure that the administration, interpretation and enforcement of programs,

DRAFT-December 28, 1993
NOT FOR DISTRIBUTION

activities and policies are undertaken in a manner that identifies, and addresses, as appropriate, disproportionately high effects of environmental hazards on minority populations and low income populations;

(2) assist in coordinating research by, and stimulating cooperation between, the Environmental Protection Agency (EPA), the Department of Health and Human Services, and such other Agencies as may be appropriate to determine the health effects of environmental hazards on all populations, including minority populations and low income populations;

(3) develop model projects that demonstrate cooperation between Federal agencies; and

(4) seek to identify budget and funding concerns related to human health and the environment that affect multiple Federal agencies and can be coordinated.

1-104. Development of Agency Strategies

(a) Each Federal agency shall develop an agency-wide, environmental justice strategy, as set out in subsections (b)-(e) to carry out this Order. The strategy will include a list of activities related to human health and the environment, which may include programs, policies, planning and public participation processes, enforcement, and rule makings, where revisions may be undertaken to address disproportionately high and adverse human health or environmental effects on minority populations and low income populations. In addition, the strategy shall include, where appropriate, a timetable for undertaking those revisions.

(b) Within three months of this Order, each Federal agency shall identify a process for developing its strategy, and shall inform the Working Group of this process.

(c) Within five months of this Order, each Federal agency shall provide the Working Group with an outline of its proposed strategy. Additionally, each agency shall identify several specific projects that can promptly address particular concerns identified during the development of the proposed strategy, and a schedule for implementation of those projects.

(d) Within nine months of this Order, each Federal agency shall provide the Working Group with its proposed strategy.

(e) Within twelve months of this Order, each Federal agency shall finalize its strategy and provide a copy to the Working Group.

1-105. Reports to the Working Group

Within twenty-four months of this Order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide strategy. The Working Group may request additional periodic reports as it deems appropriate.

switch
1-106. Reports to the President

Within fourteen months of this Order, the Working Group shall submit a report to the President on implementation of this Order, through the White House Office on Environmental Policy, which transmits the final strategies described in section 1-104(e).

Section 2-2. Nondiscrimination in Federal Programs

2-201. Federal Agency Responsibilities For Federal Programs

Each Federal agency shall conduct any Federal program or activity or any Federal action that affects human health or the environment in a manner to assure that such programs, actions or 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, actions, or activities, because of their race, color or national origin.

2-202. Federal Agency Responsibility For Oversight And Review

Each Federal agency shall require assurances and compliance reports, where permitted by law, from each non-federal agency or entity that the Federal agency is responsible for overseeing or reviewing. Such assurances and reports should state that the programs, implementation plans, or other activities delegated to or implemented by the non-federal entity will not have the effect of excluding persons (including populations) from participation in, denying persons (~~or~~ populations) the benefits of, or subjecting persons (~~or~~ populations) to discrimination under, such programs, implementation plans, or activities, because of their race, color or national origin. Where permitted by law, each Federal agency shall enforce such assurances. *now?*

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

3-301. Human Health Research and Analysis

(a) Environmental health research, whenever feasible, shall include different segments of the population in epidemiological and clinical studies, including sectors at high risk from

environmental hazards, such as the young, elderly, minority populations, low income populations and workers.

(b) Environmental health analyses, whenever feasible, shall include multiple and cumulative exposures.

3-302. Data Collection and Analysis

(a) Each Federal agency, whenever feasible and appropriate, shall collect, maintain, and analyze information that provides an objective basis for comprehensive assessment on a continuing basis of environmental and human health risks by income, race, ethnicity, occupation and national origin. Appropriate demographic data and health information, including existing demographic data, shall be collected in a manner that avoids duplication.

(b) In carrying out subsection (a), each Federal agency, whenever feasible, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Agencies and with States, Tribes and local governments.

(c) Each Federal agency, whenever feasible, shall collect, maintain, and analyze information on the social and economic status of populations surrounding Federal facilities subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §§ 11001-11050 as mandated in Executive Order No. 12856 ("Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements"). In addition, each Federal agency, whenever feasible, shall identify human health information relating to the populations surrounding such facilities. Such information shall be made available to the public, unless prohibited by law.

(d) Each Federal agency, whenever feasible, shall collect, maintain and analyze information on the social and economic status of communities surrounding facilities or sites when such facilities or sites become the subject of Federal environmental administrative or judicial actions. Where appropriate, each Federal agency shall identify human health information relating to the populations surrounding such facilities. Such information shall be made available to the public, unless prohibited by law.

Section 4-4. Consumption of Natural Resources

4-401. Consumption Patterns

Federal agencies, whenever feasible and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations identified by low-income, race, national

origin, or ethnicity, who principally rely on fish and wildlife for food and subsistence. Federal agencies shall promote a better public understanding of the risk of those consumption patterns to such populations.

4-402. Guidance

Federal agencies, where feasible and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the risks of toxic pollutant exposure on human health through the consumption of pollutant-bearing fish or wildlife.

Section 5-5. Public Participation and Access to Information

5-501. Recommendations

The public may submit to Federal agencies recommendations relating to the incorporation of environmental justice principles into agency programs or activities. Upon receipt of such recommendations, each Federal agency shall provide the Working Group with a copy of such recommendations. In addition, each Federal agency shall publicize the right of the public to submit to each Federal agency recommendations relating to environmental justice.

5-502. Public Information

(a) Each Federal agency shall, whenever feasible and appropriate, translate for limited-English speakers crucial public documents, notices, and hearings relating to human health or the environment.

(b) Each Federal agency shall work to ensure that public documents, notices and hearings relating to human health or the environment are concise, and whenever feasible, nontechnical.

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. To that end, 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 ("Leadership and Coordination of Nondiscrimination Laws"), requiring consistent and effective

implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance.

6-603. Scope

(a) For purposes of this Order, Federal agency means any authority of the United States that is an "agency" under 44 U.S.C. §3502(1), other than those considered to be independent regulatory agencies as defined in 44 U.S.C. §3502(10), and entities designated by the President within the Executive Office of the President.

(b) Independent agencies are requested to comply with the provisions of this Order.

6-604. Petitions for Exemptions

The head of a Federal agency may petition the President for an exemption or partial exemption from the requirements of this Order on the grounds that all or some of the petitioning agency's programs or activities do not affect human health or the environment.

6-605. Native American Programs

Each Federal agency responsibility set forth under this Order shall apply equally to Native American programs. The Department of the Interior, in coordination with the Working Group, shall, after consultation with tribal leaders, coordinate steps taken pursuant to this Order that target Native American communities.

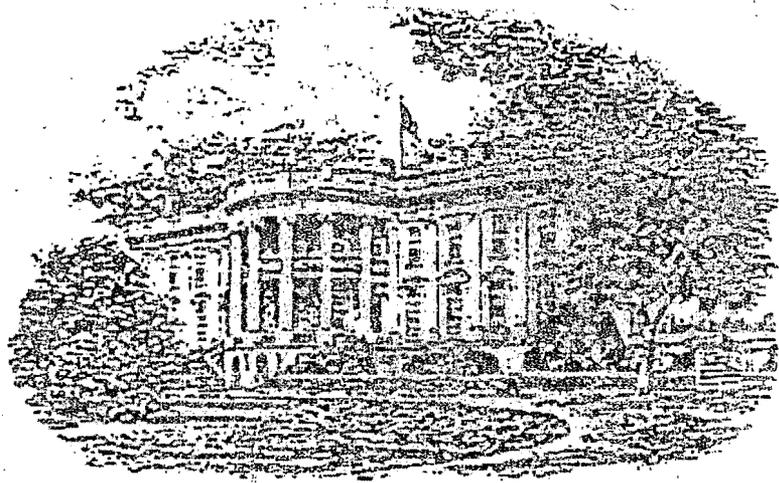
6-606. Judicial Review

This Order is intended only to improve the internal management of the Executive branch and is not intended to create any right or 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 noncompliance of the United States, its agencies, its officers, or any other person with this Order. Nothing in this Order shall be construed to confer a defense in any proceeding involving a violation of any law or regulation.

DATE: _____
TIME: _____

THE WHITE HOUSE

WASHINGTON



FAX COVER SHEET

TO: CAROL RASCO _____

PHONE: () _____

FAX: () _____ 703 370 - 1340

FROM: BRIAN BURKE _____

PHONE: (202) 456- 5573 _____

THE WHITE HOUSE

WASHINGTON

May 2, 1994

MEMORANDUM FOR CAROL RASCO
KATHI WAY

FROM: BRIAN BURKE

SUBJECT: Interagency Working Group On
Environmental Justice

I had prepared a memorandum discussing suggestions for the interagency working group process and structure. However, I just received the attached material from EPA which appears to have preempted outside suggestions. The attached material raises concerns too numerous to address. If possible, let's discuss this before the meeting tomorrow. Thanks, Brian

AGENDA
INTERAGENCY WORKING GROUP ON
ENVIRONMENTAL JUSTICE

MAY 3, 1994
3:15 - 4:30 P.M.

ENVIRONMENTAL PROTECTION AGENCY
401 M. STREET SW
ROOM 1103 - WEST TOWER

CHAIR: CAROL BROWNER, EPA ADMINISTRATOR

- I. INTRODUCTIONS AND GOALS**
- II. BACKGROUND ON ENVIRONMENTAL JUSTICE**
- III. REVIEW EXECUTIVE ORDER AND PRESIDENTIAL MEMORANDUM DIRECTIVES**
- IV. WORKING GROUP STRUCTURE AND OPERATIONS**
- V. REVIEW ASSIGNMENTS, TIMELINES, DISCUSS NEXT STEPS**
- VI. NEW AGENDA ITEMS**

Fact Sheet on Executive Order 12898
"Federal Actions To Address Environmental Justice in
Minority Populations and Low-Income Populations"
and Its Accompanying Presidential Memorandum

I. Executive Order 12898

A. Background

- Issued by the President on February 11, 1994 and became effective on that date.
- **General Purposes:** 1) to focus attention of federal agencies on the human health and environmental conditions in minority communities and low-income communities with the goal of achieving environmental justice (EJ); 2) to foster non-discrimination in federal programs that substantially affect human health or the environment; 3) to give minority communities and low-income communities greater opportunities for public participation in, and access to public information on matters relating to human health and the environment.

B. Federal Agency Responsibilities Under the Order

1. Scope and General Agency Responsibility

- The Order applies to federal agencies named to an interagency working group, and other agencies designated by the President, that conduct activities that substantially affect human health or the environment.
- To the greatest extent practicable and permitted by law, agencies must make achieving Environmental Justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects 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.

-
- Agency heads may petition the President for a full or partial exemption from the requirements of the Order.

2. Interagency Working Group

- To assist agencies in carrying out their responsibilities, the Order creates an interagency Federal Working Group on Environmental Justice (Working Group) chaired by the EPA Administrator or her designee. The Working Group is comprised of the heads of various agencies and White House offices or their designees.
- The Administrator or her designee must convene the Working Group by May 11, 1994.
- Responsibilities of the Working Group include:
 - developing guidance on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;
 - coordinating with federal agencies during the development of Environmental Justice strategies to ensure consistent implementation of the Order;
 - assisting in research coordination;
 - assisting in data collection coordination;
 - holding public meetings for fact-finding, receiving public comments, and making inquiries about Environmental Justice, and preparing for public review a summary of the comments and recommendations discussed at such meetings;
 - examining existing Environmental Justice data and studies; and
 - developing interagency model projects that show cooperation among agencies.

-
- By April 11, 1995, the Working Group must report to the President, through the Deputy Assistant to the President for Environmental Policy and the Assistant to the President for Domestic Policy, on implementation of the Order.

3. Environmental Justice Strategy

- Each agency must develop an agency-wide Environmental Justice strategy 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, by taking the following steps:
 - identifying an internal administrative process for developing an agency-wide Environmental Justice strategy and informing the Working Group of that process by June 11, 1994;
 - providing to the Working Group an outline of the agency's proposed Environmental Justice strategy by August 11, 1994;
 - giving to the Working Group the agency's proposed Environmental Justice strategy by December 11, 1994;
 - finalizing the agency's Environmental Justice strategy and giving a copy and written description of it to the Working Group by February 11, 1995;
 - including in the agency's final Environmental Justice strategy:
 - the identity of, and an implementation schedule for, several specific projects that can be undertaken promptly to address particular concerns identified during the development of the proposed Environmental Justice strategy;

- a list of agency programs, policies, planning, and public participation processes, enforcement, and/or rulemakings that should be revised to, at a minimum: 1) promote enforcement of environmental and health 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 subsistence use of natural resources among those populations; and
- where appropriate, a timetable for undertaking and identified revisions and consideration of economic and social implications of the revisions; and
- reporting to the Working Group by February 11, 1996 on the agency's progress in implementing its final strategy.

4. Nondiscrimination in Federal Agency Programs

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

5. Research, Data Collection, and Analysis

- o Whenever practicable and appropriate, federal agency environmental human health research must include diverse segments of the population in epidemiological and clinical studies, including those at high risk from environmental hazards, such as minority populations, low-income populations, and workers who may be exposed to substantial environmental hazards.

-
- Whenever practicable and appropriate, federal agency human health analyses must identify multiple and cumulative exposures.
 - Agencies must give minority populations and low-income populations an opportunity to comment on agency research strategies developed under the Order.
 - To the extent permitted by existing law, each agency, whenever practical and appropriate, must collect, maintain, and analyze information that assesses and compares environmental and human health risks borne by populations identified by race, national origin, or income.
 - To the extent practical and appropriate, each agency must use this information to determine whether its programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.
 - In connection with the development and implementation of its Environmental Justice strategy, each agency, whenever practicable and appropriate, must collect, maintain, and analyze readily available information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding:
 - facilities or sites that are expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when those facilities or sites become the subject of a substantial federal environmental administrative or judicial action; and
 - federal facilities that are subject to the Emergency Planning and Community Right-to-Know Act reporting requirements in Executive Order 12856 and are expected to have a substantial environmental, human health, or economic effect on the surrounding populations.

-
- Unless prohibited by law, agencies must make available to the public the information they collect on populations surrounding these facilities or sites.
 - In carrying out the human health and environmental data collection and analysis provisions of the Order, each agency, whenever practicable and appropriate, must share information and eliminate duplication of efforts through use of existing data systems and cooperative agreements among other federal agencies and with State, local, and tribal governments.

6. Subsistence Consumption of Fish and Wildlife

- To assist in identifying the need for ensuring protection of populations with differential consumption patterns, agencies, whenever practicable and appropriate, must collect, maintain, and analyze information on the consumption patterns of populations who rely principally on fish and/or wildlife for subsistence.
- Agencies must inform the public of the risks of those consumption patterns.
- Based on the latest scientific information available, agencies, whenever practicable and appropriate, must work in a coordinated manner to publish guidance concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife.
- Agencies must consider this guidance in developing their policies and rules.

7. Public Participation and Access to Information

- Agencies must convey to the Working Group recommendations made by the public relating to the incorporation of Environmental Justice principles into their programs or policies.

- Whenever practicable and appropriate, agencies may translate crucial public documents, notices, and hearings relating to human health or the environment for limited English-speaking populations.
- Agencies must work to ensure that public documents, notices, and hearings relating to human health and the environment are concise, understandable, and readily accessible to the public.

8. General Provisions

- Agency heads are responsible for ensuring compliance with the Order. Agencies must conduct internal reviews and take such other steps as may be necessary to monitor compliance.
- Agency responsibilities under the Order apply equally to Native American programs. The Interior Department, in consultation with the Working Group, and, after consultation with tribal leaders, must coordinate steps to be taken under the Order that address federally-recognized Indian Tribes.
- Unless otherwise provided by law, agencies must assume the financial costs of their actions to comply with the Order.
- Agencies must implement the Order consistent with, and to the extent permitted by, existing law, including the unfunded mandate provisions of Executive Order 12875 entitled "Enhancing the Intergovernmental Partnership." The Order does not create a basis for a cause of action or a right to judicial review.
- The Order supplements, but does not supersede, Executive Order 12250 implementing laws prohibiting discrimination in federal financial assistance programs.

II. Federal Agency Responsibilities Under the Presidential Memorandum

- Issued concurrently with Executive Order 12898.

- The presidential memorandum underscores several provisions of environmental, civil rights, and other statutes that provide opportunities to prevent minority communities and low-income communities from being subject to disproportionately high and adverse environmental effects.
- Pursuant to Title VI of the Civil Rights Act, agencies must ensure that programs or activities receiving federal financial assistance that affect human health or the environment do not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin.
- Each agency must analyze the environmental effects, including human health, economic and social effects, of its actions, including their effects on minority communities and low-income communities, when such analysis is required by the National Environmental Policy Act (NEPA).
- Agencies must provide opportunities for community input in the NEPA process, including identifying potential effects and mitigation measures in consultation with affected communities and improving the accessibility of meetings, crucial documents, and notices.
- In analyzing mitigation measures in its environmental assessments, environmental impact statements, and records of decision under NEPA, agencies, whenever feasible, should address significant and adverse environmental effects of their proposed actions on minority communities and low-income communities.
- In its Clean Air Act section 309 review of environmental effects of proposed actions of other federal agencies, EPA must ensure that the action agency has fully analyzed environmental effects on minority communities and low-income communities, including human health, social, and economic effects.

-
- **Agencies must ensure that the public, including minority communities and low-income communities, has adequate access to public information relating to human health or environmental planning, regulations, and enforcement when required under the Freedom of Information Act, the Government in the Sunshine Act, and the Emergency Planning and Community Right-to-Know Act.**

Outputs Defined in Executive Order 12898

<u>WHEN</u> (by what date)	<u>WHAT</u>
05/11/94	EPA Administrator convenes and conducts Working Group
06/11/94	Agencies identify process for developing Environmental Justice strategy and inform Working Group
ongoing	While developing strategy, identify pilot projects to address problems found
08/11/94	Agencies provide outline of Environmental Justice strategy to Working Group
12/11/94	Proposed strategies to Working Group
02/11/95	Provide copy and written description of final strategies to Working Group Each agency report to Working Group on implementation of Environmental Justice strategies
04/11/95	Working Group, through the Office of Environmental Policy and the Domestic Policy Council, submits a progress report to the President
periodically	Reports from agencies, as requested by Working Group
undefined	Work Group to hold public meetings for fact-finding, receiving public comments, conducting inquiries on Environmental Justice
"	Receive from agencies, public comments they received on incorporating Environmental Justice principles
"	Provide guidance to Federal agencies on criteria for identifying disproportionately high and adverse human health effects of environmental effects on minority populations and low-income populations

Interagency Working Group on Environmental Justice

Chair: Carol Browner, EPA Administrator

Level: Cabinet Secretaries of
DOJ, HHS, DOC, HUD, DOT, DOA, DOL,
DOI, DOE, DOD, DOD
Heads of
OMB, OSTP, CEA, CEQ, DPC, OEP

Subcommittee on Policy and Coordination
Task Force Chairpersons and Staff
Level: Undersecretary, Deputy

DOJ, HHS, DOC, HUD, DOT, DOA, DOL, DOI,
DOE, DOT, DOD, OMB, OSTP, CEA, CEQ, DPC, OEP

Task Force on
Research and
Health

Task Force on
Outreach
Co-Chair: _____

Task Force on
Data
Co-Chairs: _____

Task Force on
Enforcement and
Compliance
Co-Chairs: _____

Task Force on
Native Americans
Co-Chairs: _____

Task Force on
Definitions and
Standards
Co-Chairs: _____

Task Force on
Interagency
Projects
Co-Chairs: _____

PRESERVATION PHOTOCOPY

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*Sample of Current
Interagency Environmental Justice Projects*

Activity	Agencies Involved
D.C. Lead Abatement Program/Lead Initiative <i>Training in lead abatement and restoration of under/unemployed</i>	EPA, HUD, HHS, SBA, DOC
Pesticide Protection <i>Holistic approach to pesticides protection, including farm worker protection, food residue levels, and ground water protection</i>	EPA, USDA, OSHA, FDA
Federal Facility Compliance Initiative <i>Multi-media enforcement/compliance initiative targeting high-priority facilities for inspection and follow-up enforcement</i>	EPA, DOE, DOD, others
Delta Project <i>A series of project analyzing environmental and health effects data in minority and low-income communities.</i>	EPA, NIEHS, ATSDR, state agencies
Environmental Justice Health Symposium <i>A three day symposium, attended by over 1100, examining future needs for Environmental Justice health research</i>	EPA, NIEHS, ATSDR, DOE, NIOSH
Committee on Environment and Natural Resources <i>Coordinates research government-wide (under the Office of Science and Technology Policy)</i>	All

Possible Future Interagency Environmental Justice Projects

Activity	Potential List of Agencies
Methodology - Data Collection Around Federal Facilities <i>Develop the protocols for the data collection around federal facilities called for in the Executive Order. Consistent collection of demographic and health data will facilitate analysis and consistency of results.</i>	EPA, DOE, DOD, HHS, others
Environmental Justice Health Research <i>Coordinate efforts to develop health information (both existing data and future studies) to include diverse segments of the population.</i>	EPA, DOE, HHS, others
Data Collection/Analysis of Consumption Patterns <i>Collect, maintain, and analyze consumption patterns of groups who rely on fish and wildlife for subsistence.</i>	EPA, DOC, DOI, others
Coordination of Indian Programs <i>As called for in the Executive Order, the coordination of efforts directed at Native American communities.</i>	All
Data availability and Quality <i>A project to look at existing data available within Federal agencies that could be useful for Environmental Justice analyses, both by government and the public. Seek to determine and/or improve the quality of the data and how to make it available for public use.</i>	All

Sample Partnerships

D.C. Lead Initiative

Through a formal Memorandum of Understanding signed on May 7, 1993, EPA, HUD, DOC, SBA and the DC Government agreed to provide economic development opportunities for underemployed and unemployed residents of DC public housing, focusing on job training and business entrepreneurial development in lead paint abatement and restoration.

Training includes both classroom studies as well as on-the-job training where lead abatement work is being performed in public housing units in D.C. Wards. Special emphasis is placed on supervisory skills to improve the trainee's future employment opportunities in the lead abatement field. The DOC and SBA are working with those residents interested in developing their own lead abatement small business.

This cooperative initiative between several federal agencies and a local government hopes to achieve a mutual goal of empowering urban communities to alleviate environmental problems while at the same time stimulating economic growth and development in urban cities.

Baltimore Urban Environmental Risk Initiative

HHS, EPA, the Maryland State Environmental and Health Agencies, and the City of Baltimore initiated this 2 year urban risk pilot project in July, 1993 to identify and, hopefully reduce human health and ecological risks to urban communities found to be at disproportionately greater risks than non-urban areas. This study will determine comparative risk assessments of major environmental factors affecting the city and identify sub populations and ethnic groups most impacted by these risks.

The project will use information from the Toxic Release Inventory (TRI) and the Geographic Information System (GIS) to identify sources of air, waste and soil contaminants and locate them on base maps of Baltimore. Demographic data is being collected to provide an objective basis for assessing risks by income, race, ethnic background and other significant factors. This pilot study expects to be completed in 1995.

Interagency Tribal Initiatives

Four-Party Memorandum of Understanding

The Bureau of Indian Affairs (BIA), the Environmental Protection Agency (EPA), the Department of Housing and Urban Development (HUD) and the Indian Health Service (IHS) entered into this MOU "to identify areas of mutual interest and responsibility of the four agencies and to encourage the coordination of the agencies' respective activities to promote the most efficient and integrated utilization of resources". Quarterly meetings are to be called by BIA to discuss the implementation of the MOU. The MOU was signed in full in June, 1991. The Office of Federal Facilities is the current contact for EPA.

Interagency Task Force on Economic Development

This White House lead task force last week held its first meeting for the subgroup on Tribal Economic Development. In addition to the group's general mission of facilitating Tribal economic activities, the task force is specifically looking at sustainable development, infrastructure development and education. This group may eventually expand its mission to act as the Administration's coordinating unit for a broad array of interagency initiatives in Indian Country. Martha Prothro is the current contact for EPA.

Superfund Reauthorization

During the Administration's development of recommendations for the reauthorization of Superfund, the Department of the Interior lead an interagency working group on Tribal Issues. The participants in this initiative included staff from EPA, DOI, DOJ, IHS, ATSDR, HUD, DOD, DOE, COE and USDA. EPA lead the working group's series of eight outreach meetings throughout Indian Country, comments from which were later used in the development of recommendations on Tribal Issues for the Administration's reauthorization package. The Office of Federal Activities, with assistance for the Office of Environmental Justice, was the contact for EPA.

LEVEL 1 - 5 OF 14 STORIES

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Los Angeles Times

February 12, 1994, Saturday, Home Edition

SECTION: Part A; Page 15; Column 1; National Desk

LENGTH: 760 words

HEADLINE: ' ENVIRONMENTAL JUSTICE' FOR U.S. MINORITIES IS ORDERED;
POLLUTION: CLINTON TELLS ALL AGENCIES TO EASE THE BURDEN ON DISADVANTAGED
COMMUNITIES. IMPACT OF HAZARDOUS CONDITIONS IN AREAS TO BE DOCUMENTED.

BYLINE: By MELISSA HEALY, TIMES STAFF WRITER

DATELINE: WASHINGTON

BODY:

President Clinton on Friday ordered all federal agencies to take steps to lighten what officials called a disproportionate burden on minority communities of pollutants and other environmental hazards.

Clinton signed an executive order requiring federal agencies to "make environmental justice a part of all they do." Under the order, fair treatment of minority communities would become a factor in decisions ranging from the regulation of pesticides to the prosecution of polluters.

The initiative also sets in motion an unprecedented data-gathering effort across the federal government to document the impact of pollution on minorities.

"Every community must be included in making decisions about their health and environment," said Vice President Al Gore, who has pressed for the initiative. Under the President's directive, he added, "we will ensure that disadvantaged populations have an opportunity to participate fully in making health and environmental decisions."

The initiative, which stems from an earlier promise by the President, has been hailed by groups struggling to counter what they view as a pattern of environmental racism that has befouled minority communities and left them vulnerable to the arrival of new sources of industrial pollution.

But a group of environmental activists meeting in Washington on Friday called on the Administration to do more to rid their communities of pollution. Specifically, they called for a ban on chemicals such as lead and benzene. All have been linked to a variety of illnesses ranging from cancer to nervous disorders to birth defects.

The Clinton Administration is the first to address the issue at such a high level after years of appeals from minority organizations. Benjamin F. Chavis Jr., director of the National Assn. for the Advancement of Colored People, has made environmental justice a priority for his organization.

A 1987 study by Chavis, titled "Toxic Wastes and Race," established for the first time that communities with large minority populations -- even relatively prosperous ones -- were far more likely to have hazardous waste facilities and

Los Angeles Times, February 12, 1994

other pollution-producing industries in their midst than were other communities.

A more recent study published by the National Law Journal in 1992 concluded that polluters based in minority areas were treated less severely than those in largely white communities. It also found that toxic cleanup programs under the federal Superfund law took longer and were less complete in minority communities.

Under the initiative, the EPA is expected to gather new data and issue new regulations designed to stem the concentration of heavy industry in areas largely populated by minorities. Last week, the Administration proposed a series of reforms to the Superfund program that would give minority communities a greater voice in cleaning-up Superfund sites in their neighborhoods.

EPA Administrator Carol Browner added that the EPA also will reconsider many of the standards by which exposure to potentially harmful chemicals would be considered safe. Current standards for EPA's fish advisories, for instance, assume the consumption habits of a middle-class white male. Browner said that new standards would be explored to consider the exposure of minority groups that rely on fishing to subsist and as a result eat large amounts of fish, which can accumulate harmful toxins.

Also on Friday, Atty. Gen. Janet Reno said that the Justice Department will supplement the EPA's regulatory efforts to ensure that minority communities receive equal protection from polluters.

"What we want to do is to make sure we look at the people most at risk and to make sure that our environmental laws and our civil rights laws are used as vigorously as possible to correct injustice," said Reno.

In October, the Administration quietly handed minority communities a potentially powerful new tool to fight the introduction of hazardous materials sites in their neighborhoods. The Administration agreed to investigate two separate civil rights complaints from minority communities in Louisiana and Mississippi, which charged that the proposed siting of new plants in their midst was racially biased.

The decision marks the first time that the federal government has encouraged the use of the 1964 Civil Rights Act in community environmental battles, although the nation's courts traditionally have been wary of such efforts. Clinton Administration officials said that the move is a measure of their commitment to rectify environmental injustices.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: February 13, 1994

LEVEL 1 - 10 OF 14 STORIES

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The New York Times

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SECTION: Section A; Page 34; Column 1; Editorial Desk

LENGTH: 381 words

HEADLINE: Environmental Justice

BODY:

It should come as no surprise that Washington is only now beginning to see that racial justice is essential to good environmental policy. The environmental movement is run by whites preoccupied with conservation rather than racial issues. Today's basic laws on clean air and water are only a quarter-century old. And for 12 of those years, when Ronald Reagan and George Bush occupied the White House, neither the environment nor racial justice ranked high on the official agenda.

President Clinton is thus to be commended for offering a measure of atonement in the form of an executive order, due in a day or so, asking all Federal agencies to insure that their programs do not inflict disproportionate environmental harm on the poor or on minorities.

The order would require these agencies to give minorities an equal voice in the planning and enforcement of regulations, ranging from the licensing of hazardous-waste incinerators to cleanups of toxic dumps. It would also insure that minorities share equally in the benefits of those programs.

Mr. Clinton's order owes much to two studies. In 1987 a pioneering survey by Benjamin Chavis, head of the National Association for the Advancement of Colored People, collected largely anecdotal evidence showing that communities with large minority populations, even relatively affluent ones, were more likely than white communities to have hazardous waste facilities and other polluters dropped in their midst.

Then in 1992, as part of an even more extensive survey, The National Law Journal, based in New York, demonstrated that minorities benefited unequally from Federal pollution programs. Cleanups of toxic waste dumps under the Superfund program took longer and were less thorough; polluters in minority neighborhoods paid fewer and smaller fines. This study caught the attention of Carol Browner, administrator of the Environmental Protection Agency, who pressed her case for environmental justice with the White House.

The order gives each agency a year to publish its strategy for fair treatment. Executive orders sometimes have an evanescent life, dissipating with the political winds. With that in mind, the White House has an obligation to see that today's good intentions become tomorrow's standard practice.

LANGUAGE: ENGLISH

LOAD-DATE-MDC: February 11, 1994