

NEW JERSEY STATE LEGISLATURE

ASSEMBLY REGULATORY OVERSIGHT COMMITTEE

IN RE:

Environmental justice issues impacting urban and rural communities across the state.

B E F O R E:

ASSEMBLY REGULATORY OVERSIGHT COMMITTEE

Office of Legislative Services

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**ASSEMBLYMAN WILLIAM D. PAYNE (Chair):** Good afternoon, everyone. I do apologize for starting late. We had a hearing just a few moments ago in this same room, so we had to vacate the room for that hearing and get back here. So I do apologize for starting a little bit late.

What we are going to do now is call the roll for the Assembly Regulatory Oversight Committee meeting that we're having here today. And I would like to ask Mr. Vari to call the roll.

MR. VARI (Committee Aide): Assemblyman Thompson?

ASSEMBLYMAN THOMPSON: Here.

MR. VARI: Assemblyman Fisher?

ASSEMBLYMAN FISHER: Here.

MR. VARI: Vice Chairman Steele?

ASSEMBLYMAN STEELE: Here.

MR. VARI: ASSEMBLYMAN PAYNE?

ASSEMBLYMAN PAYNE: Here.

I would note that Assemblyman Fisher has graciously volunteered to serve on the Committee for us today, and I appreciate you coming in with us. We have a good deal of concerns about the environment. I note that we have Senator Ronald Rice here, who just stopped in to say hello. It's nice to have you here, Senator Rice, to join us if you choose.

SENATOR RICE: I'm just observing. I'm going home.

ASSEMBLYMAN PAYNE: Today we're going to review the environmental issues that exist throughout our State. All these conditions are so appalling, and seemingly concentrated in minority areas, that they rise to the level of, what many will call, the denial of Civil Rights.

Many poor people who live in crowded urban areas are destined to live in homes and environments that are less than the quality of life that should be afforded. The denial, really -- we call it a denial of Civil Rights for many poor and minority folks.

One, let me just say that children must not suffer the debilitating consequences caused by ingesting airborne particles of lead or chips of paint, which are all too prevalent in homes in which our less fortunate among us are destined to live.

We, all of us, have a responsibility, and indeed an obligation, to eradicate this preventable condition of lead poisoning.

This condition, which robs children of a fruitful, productive life, a condition which damages the brain to such a degree that it affects the cognitive ability of children, it limits their growth, it effects their behavior, and their ability to concentrate.

Lead is a silent poison. Lead is a stealth disabler. Lead paint is an insidious stalker of our children. Not black children, not white children, not rich children, not poor children, not only urban children, not only suburban children, but all children who reside in homes built prior to 1978, because paints used in those older homes were invariably lead based.

The irony of this lead poisoning is that it can be prevented. Yet in New Jersey there are thousands of children who have been diagnosed with lead poisoning. Every year an additional hundreds of new cases are identified.

In New Jersey, multifamily homes are required to be inspected for possible lead contamination. Yet two-family homes are exempt from government inspectors. Therefore, children residing in those two-family homes built before 1978 are helpless, potential victims until they manifest symptoms of having been poisoned. Just like canaries that were used to detect poisonous gas in mines, we wait until the children in these two-family homes become poisoned before we act. That's stupid. That's absurd. And that must be corrected.

I've written and introduced legislation that would extend mandatory lead paint testing to all homes constructed before 1978. We will finally extend protection to those children who reside in two-family homes as well. Let's prevent lead poisoning, not treat it after the fact.

Additionally, urban dwellers are primarily victims of contaminated airborne pollutants, which result in respiratory ailments such as asthma and others. One of the causes of this affliction is the poisonous fumes emitted from diesel fuel exhausts which contaminate the environment wherever diesel fuel vehicles and equipment operate.

This contamination can be drastically reduced or even prevented by retrofitting these vehicles with recently developed and improved devices, which are far less expensive than earlier models. Perhaps you will hear testimony today of the latest developments in that area.

The right to live in a home free of lead paint poisoning is a civil right. The right to breathe air free of fuel pollutants is a civil right. Yet a disproportionate number of children living in urban centers are subjected to lead and fuel pollutants. Also, many poor families of children living in rural areas of our state are subjected to these poisonous conditions. They are being denied their civil right, too, by being subjected to a dangerous and unhealthy environment.

I am pleased that the nation's oldest and most respected protector of civil rights, the National Association for Advancement of Colored People, has recognized that the denial of a safe, healthful environment to mainly minority and poor citizens is a violation of Civil Rights, and has joined in the fight to correct these conditions.

I want to thank Mr. Carrington, the Vice President of the New Jersey Conference of the NAACP for being here to testify today.

And I welcome all to come and testify today on these positions. And I'm confident this hearing will provide valuable information and direction for us to address and eradicate some of the deleterious environmental conditions that affect so many of New Jersey's residents. We must make sure that the environmental civil rights all are guaranteed and protected.

Thank you. And I would like now to invite you to testify here. Before I do that, I'd like to ask whether any of the members of the Committee have any comments they would like to make.

No? Okay.

Thank you very much. I'm going to ask the first people to testify: David Pringle and Kim Gaddy, of the New Jersey Environmental Federation and Environmental Justice Alliance, to come forward.

K I M G A D D Y: Kim Gaddy, K-I-M, G-A-D-D-Y.

First of all, I want to thank Assemblyman Payne for acknowledging the environmental injustices that exist in the communities of people with color. I want to thank you for attending our EJ Tour in the City of Newark, where you were there to support our future urban voices, the youth who came out, as well as environmental justice activists.

Environmental justice means community empowerment, and bringing stakeholders to the table so that they can voice their opinions, and to make sure that their opinions are respected. Environmental justice is about making sure that people have access to information, in a user-

friendly way, to make a decision. Environmentalism is a basic right to a healthy environment. Some people can't leave neighborhoods that have lead poisoning, neighborhoods that are next to toxic waste sites, and neighborhoods that are next to freeways. Some people can't leave. Some people don't want to leave. Some people have a right to stay and to be safe.

In 2001, I attended the second National People of Color Environmental Leadership Summit, where we brought together people from all over the world to a conference in Washington D.C. I left the conference with a commitment to do a better job of protecting our people and communities in New Jersey and around the world.

Our children's health and their ability to learn are severely impacted by a number of environmental factors. Heavy metals, like lead and mercury, are in our homes, schools, soil, and the air. They are "dumbing" down our children's ability to succeed in the world. We need to turn this trend around.

While there are a number of factors that adversely affect the health and welfare of families, the New Jersey Environmental Federation and Clean Water Fund have long worked to reduce the environmental health impacts in urban communities: lead poisoning, toxic waste and emissions, drinking water contamination, solid waste disposal and incineration. And below is a brief description of several current programs under the umbrella of our "Children's Environmental Health Initiative."

New Jersey Environmental Federation produced a white paper called "Diesel Hotspots: A Snapshot of Newark: Finding A Path Towards Kids' Clean Air Zones," and I'm seeking your support to not only brief it here, but also from the Black Caucus, on the findings of one of the most debilitating environmental health problems for children: asthma. More New Jerseyans are predicted to die each year from the acute and chronic effects of soot, a large portion of which comes from diesel exhaust, than are murdered or die in auto accidents. According to the 1999 USEPA data and methodology, nearly 800 premature deaths, 18,000 asthma attacks, and 541 children emergency-room visits per year in New Jersey -- by reducing diesel exhaust.

In Newark the problem is more acute. The death rate attributable to asthma in Newark is 5.8, compared to 2.8 in the suburban

and rural areas of the county. Hospitalization rates for asthma were 110 in Newark, but only 46 in the suburban/rural population as noted by UMDNJ.

In other areas of concern, as part of a national effort, we have been working with the Newark and Trenton schools to advance a "healthy schools" program. Our children spend most of their waking hours in schools, yet many of the buildings and maintenance practices are unhealthy for our children and staff. As a result, children who are the most vulnerable due to their body weight, rapid development, behaviors, and activities are being exposed to harmful substances in the air and ventilation systems, drinking water, or building structure itself.

NJEF and Clear Water Fund has successfully launched pilot healthy school programs in the area of pest control, cleaning agents and drinking water safety.

We have an opportunity to prevent harm to children through positive cost-effective and practical action, as well as through statutory and regulatory controls. By taking both routes, our Children's Health Initiative can get the greatest results in the shortest time line, thereby protecting our children from harm from toxics.

The largest city in the state, Newark is a city of great opportunity, as well as ills. Newark serves as a hub for commerce, transportation, higher education, and the arts. Unfortunately, Newark area residents pay a price with their health and quality of life. They are burdened with lead poisoning, respiratory ailments -- including asthma -- higher cancer and mortality rates. Those most vulnerable to these environmental injustices are the children, youth and elderly. And they are not able to live up to their full potential and are less able to learn, work, and participate in the community at large. Families are faced with escalated health-care costs, lost workdays, and school absenteeism. Asthma is the leading cause for school absenteeism in the nation, with 25 percent of urban school age children being asthmatic. According to UMDNJ, asthma counts for 12 percent of New Jersey's managed health-care costs.

NJEF is committed to assisting Legislators and urban mayors to provide the leadership, as well as facilitate coordination with the State of New Jersey and the Municipal Council to ensure that the state and city thrives in a way that protects the residents and neighborhoods from environmental harm and illness.



To that end, the New Jersey Environmental Federation is submitting to you our environmental priorities. The areas include:

Urban environmental leadership: establish local environmental commissions; advocate environmental justice issues amongst your peers and administration; support the creation of an Urban Environmental Institute in Newark that will train a new generation of urban youth and environmental advocates.

Drinking water safety and supply: Ensure the protection of the drinking water supply located in the Highlands, as well as lands upstream of drinking water uptakes.

Healthy schools/healthy towns: Adopt and implement policies that establish "Pesticide Free Zones" in parks and other recreational areas; enforce the state's diesel "no idling" requirements; create "Kids Clean Air Zones" so as to reduce the impacts of diesel exhaust on our youth. We have drug-free zones; we have smoke-free zones. We should be able to have a kids clean air zone to protect our youth. Become a visible advocate for a stable source of funding for the operation, maintenance, and capital needed for our urban parks.

Lead poisoning prevention: Take steps to ensure the full implementation of educational, abatement, and other mitigating measures to reduce exposure and intake of lead found in the drinking water, soil, and housing stock.

Brownfields and cumulative impacts: Support and advocate for action that will preserve/secure our local jobs, while reducing the multitude of pollution sources and pollutants that Newark residents are exposed to at home, school, work, and neighborhoods. Ensure that brownfield cleanups are properly executed and thorough, and reuse plans are appropriate given the contaminants of concern, and desires of the neighborhood.

The New Jersey Environmental Federation looks forward to collaborating with you on these and other emerging environmental justice issues. And as a lifelong resident of Newark, currently residing in the Township of Irvington with three children who are asthmatic, it's unfortunate that my children suffer because of the overburden that we are, everyday, given in our communities, just because of the location of our homes -- the high traffic, the buses. You don't see that in some of the suburban and rural areas, as well as -- with the same impact that you see in the urban communities.

So I am so appreciative that Assemblyman Payne invited me here. There are several brochures that I disseminated -- "Environmental Justice" and "Kids' Clean Air Zone." And there's a press release and some talking points about the Nationwide Environmental Justice Tour that you participated in, too, as well, just so you can read it for your own edification.

And I do look forward to us working together to begin to save the lives of our youth and our children.

Thank you.

ASSEMBLYMAN PAYNE: Thank you very much, Ms. Gaddy.

Anybody have questions of Ms. Gaddy?

Assemblyman Fisher?

ASSEMBLYMAN FISHER: I just wanted to thank you very much. This is just significant testimony, in so many areas, concerning environmental issues.

When you, with lead poisoning -- when you transfer a home, when a home is sold, doesn't every home have to have a lead paint inspection?

MS. GADDY: Well, it's just a document that you sign that you believe that your house does not have any lead. So you sign the paper, you give it to the realtor, the realtor gives that to the tenant or the person that purchases the home; but you don't know. You're assuming that because you have paint, which is current day paint, that there's no lead. But lead comes from so many other sources.

In most urban communities, if you have abandoned structures right next to, you know, well-conditioned properties, there's lead that's from that abandoned structure. There's lead and poison within the soil, so you bring it in to your home. Our children play in the local neighborhood, so they have a tendency to play in some of the dilapidated lots, dilapidated housing, and so they're overexposed.

ASSEMBLYMAN PAYNE: Mr. Fisher, I do believe when you sell a house there is a clause in there that you attest to, the best of your knowledge, there is no lead.

And as Ms. Gaddy is saying, I don't know whether there's any follow-up other than that you testify that, "As far as I know, there's none there." But one- and two-family homes are really what we have here; and I don't know that they come under -- one- and two-family owner-occupied homes are presently excluded from this inspection. And what we

have here is that many youngsters who live in urban areas live in homes with one and two families that are not tested at all. And what happens is they only realize that the child has been exposed to or poisoned by lead because, when they come to school and display the kinds of -- manifest the kinds of conditions the child has, they don't know they wait and-- They used to send a canary into mines to find out whether there's toxic poisons in the mines; and when the canary died, then they knew there was some there. So same here: A child in a one- or two-family home, in an older area, comes to school, no one has checked your house -- it's not required by law up until now. The legislation I've introduced will change that.

I think the important thing that we need to know is that many times youngsters are in school and the teacher complains that they're disruptive, they're not paying attention, etc. The fact is that many of these children, their brain has been damaged by the poison that they have ingested. And I think that that's really what we need to get resolved, and I hope that my legislation will take care of that problem.

MS. GADDY: Okay. Dave should be here shortly.

ASSEMBLYMAN PAYNE: Okay. I was also going to ask about-- You mentioned about Newark, and the condition that exists in Newark. What about other hidden areas; what about Camden? Do you have records on Camden, or Paterson, or some other older communities that, perhaps, the same type of conditions exist there?

MS. GADDY: Yes. We do.

I particularly focused on Ironbound because I know Roy Jones-- Is Roy here?

UNIDENTIFIED SPEAKER: He's not here yet.

MS. GADDY: He's not here yet? Roy was going to speak on Camden Waterfront South.

ASSEMBLYMAN PAYNE: Okay. When he gets here maybe we'll--

All right. Thanks a lot. I'm sure that there are some other people that will testify who will cause us to have some other questions. I know I have some (indiscernible) questions. You'll stay, because I may ask some questions of you later on?

MS. GADDY: Yes. Thank you. Sir.

ASSEMBLYMAN PAYNE: We'll ask Ms. Kathleen Jackson Shreckgast, from Rutgers Environmental and Law Clinic.

K A T H L E E N   J A C K S O N   S H R E K G A S T: Good afternoon. My name is Kathleen Jackson Shrekast, and I'm a tax attorney at Rutgers Environmental Law Clinic in Newark. And I wanted to touch on the environmental justice issues from a legal perspective, offering what we see to be as some of the drawbacks of the current possibilities for environmental justice issues, and some solutions. But, again, these are just a very few of the possibilities that are out there, along with only a few of the issues that exist with environmental justice legal action.

Basically, there are three examples of problems with environmental justice implementation from a legal perspective. And the first has to do with Federal Civil Rights court cases dealing with clean air issues.

In the wake of a Federal court case that is *South Camden Citizens in Action v. the Department of Environmental Protection*, the Third Circuit held that Title VI action -- that is, there may be no determination on the basis of race, color, national origin in programs getting Federal funding. These kind of environmental issues, environmental justice cases will not be successful.

If it's an action against the Department of Environmental Protection -- New Jersey, under Title VII of the Civil Rights Act, claiming that the DEP's permit process under the Clean Air Act has a disparate impact on the neighborhood in South Camden due to the race of the citizen. The Court held that Title VI prescribes intentional discrimination, and that the citizens couldn't prove intentional discrimination. And furthermore, the Court would not recognize an enforceable right, through 1983 deprivation of constitutional rights, under the EPA's disparate-impact discrimination regulations, because there was no recognition of a private cause of action in the Clean Air Act itself. Which is a complicated way to say that the Court pretty much prescribed the opportunity to bring environmental justice cases under the Clean Air Act.

The second sort of problem that you encounter in environmental justice legal cases is under the Title V permitting process, which is under the Clean Air Act.

Under the Clean Air Act, Title V permits, which is permitting for industry -- the permits don't require new emission controls for renewal of permits, that is, non-new sources. So if a facility isn't a new source for pollution, the Title V permit can be renewed based on the

requirements that were set when it first existed. So there is no requirement to clean up the facility. A facility that spews pollution in an environmental justice community is perfectly acceptable, so long as it meets the previously determined Title V permit limits -- unless it's a new source. That's a separate issue.

And this presents a problem for communities like South Camden where there are a number of different polluters, but all of the polluters meet their permit requirements. Collectively, you have really dirty air. But independently, each of these facilities is up to code; which doesn't allow a lot of opportunity for community members to clean up their own air.

Currently we have environmental justice petitions, both under the McGreevey executive order and the Clinton executive order. And these are certainly a step in the right direction. But they do have limitations and they're works in progress. So they have been successful -- for example, in Long Branch, New Jersey -- but it's a very long, slow process which is taxing to the community.

So we have a couple of suggestions for possible legislative or regulatory solutions. And the first deals with cumulative impact studies, which would apply to the communities I mentioned, where you have a number of different sources of pollution.

Currently, a cumulative impact study is not a requirement of the Clean Air Act for obtaining a Title V permit. This allows already existing facilities in historically heavily industrial and residential areas to renew operating permits based on their old, relatively dirty technology.

Our suggestion is to require cumulative impact studies to all new permits and to renewal of selected permits to deal with facilities who emit contaminants over a certain threshold. This could be outside of specific existing acts, as its own law, perhaps not connected to any permits and not performed by regulated entities, for communities like Camden, Newark, or other cities afflicted by environmental justice issues. In addition, this could be within the context of the Clean Air Act, Clean Water Act.

The second issue that we considered were Clean Air Act deadline suits. And the Clean Air Act has a citizen suit provision that allows communities to force the EPA to conduct its nondiscretionary

duties. And the way this generally works is that advocates and community members spend considerable time and effort on deadline suits.

The DEP generally sends -- excuse me, the DEP will send its permit to the EPA for review. And the community members often disagree with the terms of the Title V permit, and they'll ask the EPA to reject the permit application. This is when the process stalls. There's often indefinite delay, and this is the reason that citizens take advantage of the Clean Air Act and its provision for citizen suits. They'll send a notice to the EPA that it intends to file a deadline suit unless it hears a response within 60 days.

In 60 days, the group often files a complaint against the EPA, after the time line runs. And the facts are generally so clear, it's a very easy case to win. They have nondiscretionary duties to review a permit, they haven't done it in the appropriate amount of time, so we'll file a complaint on behalf of our clients. There's often a response from the U.S. Attorney's office, who handles the case, right before the time is set for the U.S. Attorney's office to file its response in court.

And the next thing that occurs is a settlement where the EPA promises to respond to the objection to the permit. This is absurd. It's a process that could be streamlined. If the State regulators recognize environmental-justice-sensitive communities, they can anticipate this process, and maybe work with community members and advocates to bypass or streamline the process. It's just an issue to consider.

The last area is mechanisms for technical assistance. And this stems from the idea that information is power. People know how to organize. If we can give them a tool to be effective, that would be a step in the right direction. And we suggest that we take a cue from our already existing Federal programs. One of these is the TAG program, it's Technology Assistance Grant, where the TAG program makes available grants to community groups for obtaining technical assistance to monitor and to interpret site specific information related to Superfund cleanups.

A second option is the TOSC program, which is the Technical Outreach Services for Communities opportunity. This helps citizens better understand the hazardous contamination issues in or near their communities. It provides free, independent technical assistance about contaminated sites, with the goal that if they inform the community they can participate substantively in the cleanup.

Our suggestion is that the DEP can offer its own monetary assistance or help communities apply for these grants and get involved in these programs.

Thanks.

ASSEMBLYMAN PAYNE: Thank you very much. Are there any questions?

Let me -- do you have a copy of your testimony here?

MS. JACKSON SHREKGAST: I don't. But I intend to submit it after.

ASSEMBLYMAN PAYNE: Please do. Because you have -- you mention that there are some things that are just stupid, or absurd, or whatever it is. We could rectify some of these shortcomings by either combining on some of these areas -- for instance, the cumulative. If, in fact, a polluter gets away with something because it doesn't measure up to Title V, or Title VI, and we can have a, as you say, a cumulative effort made, whereby we can bring them all together-- It makes no sense that one gets out from any kind of reprimand, or what have you, because it doesn't meet the criteria here. It just absolutely makes no sense whatsoever.

And so, with some direction from you guys, it would be very helpful to us to follow up on that, I think. And we should be able to resolve some of these problems. In earlier testimony, we talked about the fact that one department doesn't know what the other department is doing. There's no coordination, no collaboration. I think in this case we might be able to resolve some of the problems that you point out. Your testimony would be helpful to us, if you would give a copy to us.

Do any other communities use cumulative studies?

MS. JACKSON SHREKGAST: Outside the State of New Jersey, I'm not certain. There are certainly pilot programs in a number of different states. But I'm not sure of the answer.

ASSEMBLYMAN PAYNE: Nothing in the State of New Jersey?

MS. JACKSON SHREKGAST: Cumulative impact studies don't exist under the current laws, no, in the Clean Air Act context.

ASSEMBLYMAN PAYNE: What about in other contexts?

MS. JACKSON SHREKGAST: I don't know the answer to that.

ASSEMBLYMAN PAYNE: They don't exist, however, we agree that it probably would be very--

MS. JACKSON SHREKGAST: It would be very helpful.

ASSEMBLYMAN PAYNE: So we'll need some direction from you and your folks to help us come up with something that we can look at.

MS. JACKSON SHREKGAST: We'd be happy to.

ASSEMBLYMAN PAYNE: Because it makes no sense to have hearings and nothing comes out of them. I think that if you highlight some of the problems that exist here, and if some of them, often as we hear today, are just absurd, there's no reason why they can't be addressed effectively. That's the purpose of this hearing.

I want to thank you very much.

MS. JACKSON-SHREKGAST: Thank you.

ASSEMBLYMAN PAYNE: Does anyone have any comments or questions on this?

ASSEMBLYMAN PAYNE: Thank you. Thank you very much.

Nicky Sheats, from New Jersey Justice Alliance, Thomas Edison State College.

N I C K Y S H E A T S, ESQ.: Yes. Good afternoon.

ASSEMBLYMAN PAYNE: Repeat that for the record please.

DR. SHEATS: My name is Dr. Nicky Sheats, and I am a member of the New Jersey Environmental Justice Alliance. And you'll hear more -- Kim is also a member, and you'll hear at least two other of our members testify, and hopefully more. And I'm also Director of the Center for Urban Environment at Thomas Edison State College, and it's part of John S. Watson Institute for Public Policy.

And I want to thank you for giving us the opportunity to testify. By training I'm a science (indiscernible) lawyer; by employment, Thomas Edison pays my salary. And I would like to focus on air pollution. I'd like to endorse everything that Ms. Gaddy said about the issues that she brought up, and ahead of time I have an idea of what other of our members are going to say, Val and Kathy; you already mentioned Ted Carrington. And I want to endorse the things they're going to say also.

But, in this case, I want to talk about fine particulate matter air pollution. And actually, Chairman, you brought up the fact about the (indiscernible) matter air pollution and small particles that people breathe in. And this is the focus of not only the Alliance -- we've worked on this for several years, and it will also be the focus of the Center for Urban Environment. We're talking about very small particles, less than 2.5 microns in diameter. They are so small, when we breathe them in they can penetrate deep into our lungs. But even smaller



particles can get into our blood. And the reason we worry about them is because they kill. The scientific evidence is pretty much incontrovertible. A conservative estimate is that they kill about 50,000 people in the United States every year. That certainly is sufficient reason to focus on it. They kill from cardiovascular disease, respiratory disease, lung cancer. It's linked to asthma, even though it may not kill you from asthma -- even though black people die at higher rates from asthma than white people -- it may trigger asthma attacks -- that's the current thinking. And obviously, as Kim has testified, asthma is a huge problem.

We have worked on this problem, "we" being the New Jersey Environmental Justice Alliance, for several years, and we have some specific recommendations that we would like to make.

Let me read them off to you quickly, and I'll say a word about each one. We need to retrofit the private diesel fleet -- I can't read my own handwriting. We need to retrofit private diesel fleet.

We need to lower the current standard for these small particles. New Jersey needs to lower it.

We need to institute, or find a way to institute, a moratorium on pollution discharge permits in neighborhoods that are already overburdened with pollution.

We need to find -- we need to develop strategies for alternative energy sources; and we need to develop a strategy to reduce particulate matter emissions from ports and trains. And also, we advocate the institution of community-based monitoring system. Let me start with that first, the community-based monitoring system. We think there are too few monitors for fine particulate matter in New Jersey. There was about one per county the last time we looked, and that's woefully low. So we think more monitors need to be placed out there, especially in urban areas.

And remember, the fine particulate matter air pollution is higher in urban areas, so that's why it's an environmental justice issue.

ASSEMBLYMAN PAYNE: What kind of monitoring is this? What do you call it?

DR. SHEATS: Monitors for fine particulate matter air pollution. You talk about diesel particulate matter air pollution, that's just a portion of fine particulate matter air pollution. Fine particulate

matter air pollution comes from diesel engines; it comes from incinerators; it comes from all kinds of industrial smokestacks, like power plants; it comes from open burning -- believe it or not -- people burning leaves; it comes from industrial boilers.

So diesel particulate matter is an important source, especially in urban areas, but it's only part of the problem. And there exists variation in inner cities, probably primarily because of diesel engines, and we think there are not enough monitors to catch these variations. So we don't think we quite know what's going on in the inner city sufficiently.

And we would like community monitor systems, where you give the monitor to community groups. And we actually had a prototype program that Kim was involved in, and Valorie and Ted actually ran for us, where we did sampling with high school kids from Trenton, Newark, and Camden. That's community-based monitoring system.

The moratorium I talked about is somewhat connected with what Kathleen was saying. There are neighborhoods in New Jersey, probably most of them in urban areas, that are already overburdened with pollution from different sources. We need a mechanism that will allow the Department of Environmental Protection to say that if a neighborhood is already overburdened with pollution, we're not going to give out any more discharge permits in that neighborhood until the pollution in that neighborhood is reduced to some level that we deem acceptable. That sounds easy, but it's hard.

DEP's position is that they don't have the authority to do that, the legal authority. I'm not sure if that's correct, but we need to find out. And if it is correct, we need to remedy that problem. It's a tough problem, but with all the brain power on this Committee, I'm sure you can come up with a solution. We will certainly work with you to remedy the problem.

Retrofitting the private fleet of diesel engines. Chairman, you talked about the diesel legislation that called for retrofits on public diesel fleet. And that's good, but it's not enough, because the public diesel fleet only emits a small portion of particulate matter in New Jersey. Most of it is coming from the private fleet. So we need to find a way to retrofit that private fleet -- mandatory retrofits.

And in urban areas, they need to be the latest retrofits, which are a particular type of filter. And you need to use

ultra-low sulfur diesel fuel. And if the diesel power vehicles are so old they can't accommodate those types of retrofits, they need to be retired. Because they're killing -- I was going to say children -- not only killing children, but they're killing everybody.

Let me talk about ports and trains now, because it fits in with the retrofits. Significant -- ports and trains are a significant source of fine particulate matter. Ports, you're talking about ships, equipment; and also, you're talking about trucks that come to ports to carry the cargo to warehouses, and then to carry the cargo from the warehouse to wherever else you're going. You're talking about thousands of trips, and they're running through the neighborhoods bordering the ports. Of course, the ports in New Jersey, North Jersey, and Camden are basically in urban areas. So again, a disproportionate impact on urban areas.

What I would like to propose to you today, which has not yet been considered by the Alliance, but I think they will support, is that-- The trucks that deal with the Port Authority -- and we think these trucks can be identified. Because we co-sponsored a workshop in the Summer, "we" being the Center of Urban Environment, the Alliance, and a group from D.C. -- a workshop on fine particulate matter pollution related to ports. And a person from the Port Authority said they could identify these trucks; and you could imagine why, with 9/11 and security being so tight, you want to know what's coming in and out.

With the Port Authority's large budget, and because the quasi-public organization, I think the Port Authority should bear the burden and the cost of retrofitting the trucks that do business on a regular basis. You know, I checked out their budget last night on the Internet. I thought it was big, but I didn't know it was \$9 million. I think they can afford that. Many of the truckers -- I'm saying this without the evidence in front of me -- but it's my perception many of the truckers are small mom and pop organizations, and so it would be more difficult for them to handle the cost of retrofits; but we think the Port can do that.

ASSEMBLYMAN PAYNE: What's the cost for retrofitting, the new technology now -- what's the cost for retrofitting?

DR. SHEATS: Seventy-five hundred dollars, and that's for the latest. It's called a catalyzed particulate filter.

ASSEMBLYMAN PAYNE: I thought I heard there's some technology now where there's some devices that could be \$2,000.

DR. SHEATS: There are different kinds of devices. The price I'm quoting you is for the best device. The price would probably come down if you buy in bulk, so it could be less expensive. And other devices are probably less expensive, but may not do the job as well. The catalytic particulate filter filters out about 90 percent, 89 percent of particles emitted from diesel engine fuel.

ASSEMBLYMAN PAYNE: And that's the one that would be \$7500 now?

DR. SHEATS: Yes, approximately. Say if you buy in bulk, like the Port Authority could, it may be lower.

And I think we might also want to extend that policy to large corporations -- the oil refineries in North Jersey, where their trucks come in and out of the oil refineries a lot, and are running through the neighborhoods. And from what I read in the newspapers, I think they're making enough profits -- the oil companies -- to bear the burden of retrofitting the trucks that do business with them on a regular basis. And I think that would be a fair policy. And it would be a way to move into the private fleet. It would be a good starting point to retrofit the private fleet.

ASSEMBLYMAN PAYNE: Currently it's just the public fleet that the current legislation applies to?

DR. SHEATS: Public fleet; also the garbage trucks that are picking up garbage for municipalities. And I think everyone understands that we need to move to the private fleet. The question is cost. How do we pay for it? If you don't want the trucker to pay for it, then how do you pay for it?

The next thing I would urge, another, I think, critical issue -- and there's been developments on it recently -- is that we need to lower the annual fine PM standard -- "PM", particulate matter, standard. New Jersey uses the Federal standard, which is -- I'll give you the number -- it doesn't mean much, it doesn't mean much to me, but it's important because everything is relevant. The Federal standard is now 15.0 micrograms of fine particulate matter per cubic meter. So you're not supposed to exceed that average on an annual basis. We're advocating that New Jersey implement the standard used in California, which is 12.0 micrograms per cubic meters. It will save lives. You reduce

concentration of fine particulate matter air pollution, you will save lives.

Recently I was looking at the report -- part of the report last night. The Advisory Council -- Scientific Advisory Council for EPA itself recommended lowering that annual standard. They recommended lowering it to 14 or 13. They also recommended lowering -- there's also a daily standard, that's not as important as the annual standard; they recommended lowering that also. The EPA lowered the daily standard, but did not lower the annual standard. We need to go in there and take action in New Jersey to lower that annual standard. And we should implement the standard like California to give as much protection to our citizens as possible.

ASSEMBLYMAN PAYNE: California has the stricter law now?

DR. SHEATS: California has a 12.0 standard. As far I understand, it's the only one that uses that standard. And my understanding is -- I'm going to turn -- I'm a lawyer, but this is not my area of specialty -- I'm going to turn to my colleague. I hate to put her on the spot. I think the way the law works now is that states can use the Federal standard, 15.0, or it can use California's standard, 12.0. I'm actually not sure if you can use 13 or 14. I have a feeling you cannot, if the Feds don't lower it. Of course, we would advocate that New Jersey use 12.0, and not 13 or 14, because I do believe there's a margin for error, and it will save more lives.

So California is the only state now to use it, and we think we should be the leaders on the east coast and go ahead and lower the standard.

We hope that eventually the EPA will follow the advice of its own Scientific Advisory Council and go ahead and lower the standards somewhat anyway, maybe in the upcoming years; but there's no need for us to wait. We can go ahead and take action.

ASSEMBLYMAN PAYNE: Let me ask you a question.

We're talking a lot, what I hear -- we're talking about the trucks that ply the roads of municipalities, etc. It's like a corridor of contamination, really.

Rural areas of the state -- do we have any specific kinds of issues? I know, probably on the farms, they probably have diesel fuel. I don't know whether or not it's that much. I'm sure that they have the kinds of contaminants that come out of the equipment they use

there. Do we have any figures on the impact of this on rural areas, or it just doesn't exist -- we don't have those problems out there?

DR. SHEATS: You have the monitors that are one per county. And I think the rural areas -- most of them, we probably think, are certainly lower than urban areas.

Currently 13 -- I think that's the number -- 13 of the 21 counties in New Jersey are in violation of the Federal standard, the 15.0 standard; either because concentrations in those counties are too high, or because they're thought to contribute air pollution to neighboring counties where the concentration is too high.

So the conventional wisdom would be, rural areas are lower, unless you have something like -- I know in Warren County, they have some kind of industry up there, I forget which, you know is making air pollution. So in that area it's thought to be fairly high. But generally, rural areas are thought to be lower than urban areas.

But one thing to keep in mind, especially in New Jersey-- I live in Trenton, and the Clean Air Task Force, which has considerable amount of expertise on these issues, released a report that said that the cancer rate per capita for the Trenton area is the fifth highest in the country. Now, Trenton is not the fifth largest city in the country. So we're trying to figure out why that is.

And it's interesting -- it will be interesting to see how we define the Trenton area. I live in Ewing Township. Is there a large distinction between Trenton and the suburbs? Air pollution can travel. So that would be an interesting question. And one reason to get more monitors out there would be to definitely, kind of, nail this question down once and for all. Even though conventional wisdom is that you only need one monitor per county, we think you really do need more monitors out there.

The last thing I wanted to say is, we need to look at alternative energy sources. You know, our oil base and coal base system is producing too much pollution. We need to consider cleaner energy. There are a lot of alternatives: solar energy, hydrogen, electrification, perhaps bottled diesel. But particularly in New Jersey, where we have such a problem, we need to develop both long-term and short-term strategies to address the issue.

Thank you for letting me testify. We really do want to offer that we will work with you to develop these policies, and are very encouraged by things you already said, Chairman.

ASSEMBLYMAN PAYNE: Thank you very much.

Vice Chairman Steele?

VICE CHAIRMAN STEELE: Yes. When California changed to 12.0, how did they implement that process?

DR. SHEATS: When you say "implement"--?

VICE CHAIRMAN STEELE: Were they grandfathered, was there a time period in which people had to comply?

DR. SHEATS: I'm sorry. I don't know. When I came on the scene, the last four years, that standard had been there. But if you want me to find out, I will.

VICE CHAIRMAN STEELE: I would appreciate it. I think it would be great for the Committee to follow the way of California.

DR. SHEATS: In general, California, you know -- I guess because they have a large air pollution problem in LA, where it sits in all the basins, and all the cars -- is ahead of us in air pollution policy. They're talking about hydrogen. They're ahead of us in environmental justice issues. They try to incorporate more environmental justice, I'm thinking, into their laws. And a lot of the things we advocate, we don't have to reinvent the wheel, because California is out there doing some of them.

ASSEMBLYMAN PAYNE: Thank you.

VICE CHAIRMAN STEELE: Thank you.

DR. SHEATS: Thank you.

ASSEMBLYMAN PAYNE: Next we'll have Theodore Carrington.

T H E O D O R E C A R R I N G T O N: Good afternoon.

I'd like to thank Assemblyman Payne for inviting me here. My name is Theodore Carrington, and I'm the Second Vice President of the New Jersey State Conference of the NAACP. I am an appointed member of the New Jersey Environmental Justice Advisory Council, of the New Jersey Department of Environmental Protection; a member of the New Jersey Environmental Justice Alliance; and a member of the Coalition of Black Trade Unionists' CARAT Team -- that's Community Action and Response Against Toxics.

I am here on behalf of the New Jersey State Conference of the NAACP to urge the Members of the Assembly Regulatory Oversight

Committee to consider the human impact in communities where there is excessive exposure to pollutants and toxins. Too often, the communities being violated consist predominantly of people of color and low income. As a result of these toxic exposures, not only are there extreme negative health effects, but the civil rights of the people are also being violated.

For many years, environmental justice advocates have stated that all Americans have a right to equal protection under our nation's environmental and Civil Rights laws. A study by the United Church of Christ's Commission for Racial Justice in 1987 produced "Toxic Wastes and Race," one of the first national studies to state that race is the most significant factor in predicting where waste facilities are located. The study was also able to identify how important other demographic factors, such as income, are in determining the locations. Environmental justice advocates gained long sought after support from the Federal government when President Clinton signed Executive Order 12898 on February 12, 1994, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations."

More recently, environmental justice advocates raised the level of public and governmental awareness when a coalition of 70 environmental justice, social justice, public health, human rights and workers rights groups launched the Environmental Justice For All Tour. The tour was launched simultaneously in three regions of the country on September 24, 2006. The tour was designed to highlight the devastating impacts of toxic contamination on people of color and poor communities across the United States. I participated in the Northeast portion of the tour, which made 13 stops starting in Buffalo, New York, and continuing through Connecticut, Massachusetts, New York City, New Jersey, and ending in Washington, D.C.

The tour included various environmental justice sites and concerns, ranging from a stop in Syracuse at Lake Onondaga, one of the most polluted lakes in the world; to a simple statement from a man in Buffalo indicating, "When I was a youngster, I never knew what color the snow was going to be." As we got closer to New Jersey, we stopped in New York City where the asthma rates for children are among the highest in the country.

Yet tour participants were startled when we arrived in New Jersey. We visited Newark, where Agent Orange, stored since the



Vietnam War, has helped make the city the largest site of dioxin contamination in the world. And dioxin, as you know, is a known carcinogen. Exposure to dioxin can change the cell immunity -- this is especially likely in children. Also, dioxin can damage organs such as liver, kidney, and the digestive tract.

The next tour stop was in Camden, home of 114 known contaminated sites. At that stop, tour participants were able to view, from a neighborhood called Waterfront South, huge mounds of blast furnace slag used to make cement dust. Exposure to cement or concrete dust can cause nose and throat irritation. Long-term exposure to concrete dust containing crystalline silica can lead to a disabling lung disease called silicosis. As we viewed the mounds of dust, tour participants -- including the press, environmental justice advocates, DEP officials, and members of the community -- were overwhelmed by the odious odor emitting from Camden County Municipal Utilities Authority.

In 2001, because of the adverse living conditions of Waterfront South, South Camden Citizens in Action filed a Civil Rights violation lawsuit, signed on by the NAACP, against the St. Lawrence Cement Company and the New Jersey Department of Environmental Protection.

The last stop in New Jersey was in the city of Linden. Within the city or near Linden are located many oil refineries, including the massive Bayway/ConocoPhillips oil refinery; Merck Pharmaceutical; the County Incinerator; the PSE&G power plant; and other chemical facilities. As a result -- from the locations of these facilities, and the diesel exhaust from vehicles traveling on the Route 1 corridor and the New Jersey Turnpike -- conditions such as asthma rates are very high in this community. African-Americans have the highest asthma rates of any other racial/ethnic group. In 2002, the asthma prevalence rate in African-Americans was almost 38 percent higher than among whites.

In closing, I hope that I was able to convey that there are many severe cases of environmental pollution occurring in New Jersey at this time. Residents of many low-income communities and communities of color need protection from industries that fill the environment with harmful substances and odors. It is the hope of environmental justice advocates that the State Assembly will provide this protection by creating new laws that will stop or reduce the presence of pollutants and toxins in overwhelmed communities. In addition, we want existing laws, to protect people of color and low-income communities, reviewed and enforced.

I was working with Dr. Sheats on a study that we did with youngsters that he mentioned, that we worked with testing the diesel emissions in the air in Camden, and Newark, and Trenton. One of the sad things was, on one particular day when we were out there in -- if any of you are familiar with the Newark area right there -- Raymond Boulevard, right there when you're coming off the Turnpike and Route 1. As we were out there with our equipment, testing. Many of the students -- the air there triggered asthma attacks and we had to leave. And what was so dominating in my mind was, we were just there testing for an hour and we left. People live there and work there every single day. And that's amazing.

Also down in that part of Camden there are these mounds of cement dust -- mounds, not covered, uncovered -- where, you know, the community members told me, every single day they have silica dust on their house, on their porches -- those that live in Waterfront South -- and they have to dust, you know, sweep their steps and clean off their windowsills.

And the reason why I mentioned about the tour was because nowhere -- I mean, I stopped in Syracuse, Endicott, New Haven, Hartford, Boston -- was the odor like it was down in Camden. I don't understand it. There cannot be any reason why a community has to suffer like that. We were down there in the summertime. And they didn't even get a good dose, because it was at the end of September/October. We were there in June, when Dr. Sheats and I worked with the youngsters down there, and the odor was just unbelievable. And the fact, again, remains, I was bothered by being there for an hour. People live there everyday. So I'm hoping you here will help us develop the kind of legislation we need to bring about the change we need.

ASSEMBLYMAN PAYNE: Thank you, Mr. Carrington. Just a couple of questions.

You say when you were in Camden and you saw that site where the mounds of material there -- who else was in the group?

MR. CARRINGTON: Well, members of the DEP, the press, people from the community, in Environmental Justice Alliance; also, actually, the Commissioner of DEP was there. So she got to experience, you know, firsthand. It probably was not her first time, but she certainly got a strong dose of what was going on there that day. And, you know, I believe the technology is there to cut down the aroma. There was some technology applied. It was bad before. But if it was bad before,

it's still outrageous now, and some more technology needs to be applied. People have a right to be able to -- a civil right to be able to breathe, and not have people ride by their community and roll up their windows. No one leaves their windows open. No one leaves their doors open because the aroma is outrageous.

ASSEMBLYMAN PAYNE: The NAACP filed an amicus brief, I guess back in 2000, or whenever this case came up. However, the case -- it was rejected, right? I think it was testified before that the judge ruled against -- the courts ruled against the citizens group that brought this case. Yet the conditions still exist there -- the contaminated air, pollution, etc. Back in March of 2000, Christy Whitman, Governor at the time, attended a groundbreaking ceremony for this \$50 million manufacturer -- cement manufacturing plant in Camden. And she called it a momentous occasion. She thought it was just the most wonderful thing that could happen to provide -- let the St. Lawrence Cement Group put a factory there in a community that had already been overburdened, overloaded. And nobody (indiscernible), and yet the case was rejected.

I don't know-- And it's blatant and it's obvious that these are contaminants. It's obvious that these are health-threatening and life-threatening situations, yet they continue to be allowed to exist. And obviously, I am pleased that the NAACP here, at least in New Jersey, is taking these kinds of cases on, has an interest in them, to make them Civil Rights -- to elevate them to a level of Civil Rights. And I hope that the National Association of NAACP is going to adopt or will adopt these environmental injustice cases -- be part of it's agenda.

Is there any talk on, as far as the National Organization, taking on these kinds of cases, Civil Rights cases?

MR. CARRINGTON: Well, what I can say is, I think that we, New Jersey State Conference of the NAACP, is a leader on environmental justice issues. And we are going to start to push nationally, especially at the next convention -- the national convention, to get environmental justice as a committee, and for the NAACP to take a greater response. Because, you know, I didn't get into the lower part of the tour, that came from Port Arthur, Texas; and went through Louisiana, New Orleans -- the greatest environmental injustice tragedy that this country has ever seen; on through Mississippi; into Anniston, Alabama, the worst polluted city in the world; and up through Kentucky, Tennessee, West Virginia. And then the tour came down the Bay in Oakland and San Francisco, down to the

bottom of California and ended up in Los Angeles. There are over 40 cities that we were just able to organize to bring this attention. It's a national problem, and we in New Jersey should take a leadership role in trying to rectify this issue.

ASSEMBLYMAN PAYNE: This hearing may be a small step in that direction. We will need to have -- oh, I think, a good deal of advocacy -- on the part of the NAACP, I see Jerry Harrison's here from the Black Issues Convention, and other organizations that are concerned about environmental justice -- to put pressure on this body, and also on the departments that are responsible for implementing the kinds of controls that are out there. You have representatives from the very departments that are responsible for this. And I would think that not only from the legislators, but from the organizations and, you know, groups -- put pressure on this government to implement-- The laws can be passed, but if they're not implemented, then nothing happens. And we need to find out where the laws that do exist, but are not being implemented to make sure that our regulatory oversight, we can review the regulations that are out there, and supposedly that are monitoring and controlling these problems, but we have to make sure they're being implemented. But I would ask you to continue the pressure on not only the Legislature, but on those departments that are out there, and also on the administration as well.

Because people, I remember when this cement factory was proposed for Camden. I remember that. I remember the fight against it. The fact that it was thrown out and rejected, and people are still living in those kinds of conditions -- its absolutely criminal. So we have to do everything we possibly can from a legislative point of view, from a regulatory point of view; but also from a point of view of the folks that are involved in the organizations that are bringing pressures in the right places.

I truly hope that the NAACP will adopt these very aggressive kinds of moves to try to address the problems that exist. I was going to ask you to mention the tour that took place, and I'm glad you did. But the Ironbound section of Newark was one of the worst places, I suppose. And I just want to point out that there's a connection to the schools, that we've had schools that have been built on, I think right here in the City of Trenton, we had schools built on a contaminated property, a property that was a former factory where there was contaminated soil, and I think 23 million dollars later we had to tear it

down. And also, so these are the kind of things where no one is talking to the other. My God, it would seem to me that the Board of Education might have been made aware by DEP, "No, that's contaminated soil, you can't build a school there."

MR. CARRINGTON: Especially when the soil was imported in and then they built the school on top of it. That makes it totally irresponsible. Which is what happened in this case.

ASSEMBLYMAN PAYNE: Irresponsible, and obviously a violation of Civil Rights also.

MR. CARRINGTON: Well, you know, members of the NAACP and Environmental Justice Alliance will certainly contact you, because we would like to continue this kind of dialogue and raise the level of awareness amongst, certainly, the Black Legislative Caucus, and anybody else who will listen and try to understand the plight that we're struggling to rectify.

ASSEMBLYMAN PAYNE: Thank you. Thank you very much.

We have, next, Valorie Caffee, New Jersey Work Environment Council.

V A L O R I E C A F F E E: I just have to comment that I'm glad that you called me before I froze to death out there. It's quite chilly.

Good afternoon. And I really thank you, ASSEMBLYMAN PAYNE and members of the Committee, for hosting this kind of hearing today on an extraordinary -- extraordinarily important issue.

My name is Valorie Caffee. I'm the Director of Organizing, and Environmental Justice Coordinator for the New Jersey Work Environment Council. I also Chair the Environmental Justice Advisory Council to the New Jersey DEP, and serve as the co-coordinator of the Central Jersey Region of the New Jersey Environmental Justice Alliance.

By the way, we environmental justice advocates define the environment as the place where we live, work, play, pray, and go to school.

And as we've been talking this afternoon, everybody has been testifying to the fact that many people -- too many people of color, really, working-class and low-income people -- live in communities where they are exposed to a disproportionate level of pollution. This really is the problem. Justice is not the problem. This is the core of the problem -- race and class. And this is why a lot of us refer to this problem as "environmental racism" and "economic injustice." Many studies have shown

that race and income are primary factors in determining industrial zoning, siting of polluting facilities, and where and how contaminated sites are cleaned up.

When you think about it, most of the millions of pounds of toxic air releases from New Jersey companies and diesel-powered engines fall on our communities of color and low-income communities. As has been mentioned, towns such as Linden and Rahway, or Waterfront South, and the Ironbound community in Newark have vast quantities of polluting facilities that are located there, along with thousands -- thousands -- of diesel truck traffic that's traveling in and out of these communities on a daily basis, spewing out diesel exhaust and making people sick, primarily children and the elderly. I mean, asthma is at an epidemic level in this state, as well as nationwide. This is a serious public health issue that gets too little attention, and we really need to do something about that fact. That is really a crime.

Accidental chemical releases and chemical spills are frequent incidents in city neighborhoods. In Paterson, for an example, we had a huge cloud of the chemical cresol, that was accidentally emitted from the Heterene Chemical Company, which settled over a nearby school. This caused the school children and personnel to end up in the hospital, and more than 600 area residents had to be evacuated. An asthmatic child who attended the school died a few weeks later, and the school crossing guard now has permanent health problems. She was the first to respond to the cloud of cresol at the school.

This is a crime, and in fact it was recognized as a crime by EPA, our own DEP, as well as others. And the owners of that company were prosecuted. But it shouldn't have gotten that far. This was a company that was a known bad actor, had been fined before, and in fact had no business whatsoever even having the cresol on the premises because it was not permitted to use or store that chemical. And that school is only a block away from that facility, and there are too many other schools that are located very, very close to pollutant facilities in Paterson and, also, the city of Clifton.

The Work Environment Council did a study about this a couple of years ago, called "Children at Risk," looking at the proximity of pollutant facilities to the schools. And it's really disturbing because there's too many incidents of this kind that have happened in areas like Paterson and others.

The environmental justice movement has its roots in the Civil Rights movement and Title VI of the '64 Civil Rights Act. It's the basis for the Federal 1994 Environmental Justice Executive Order. And also Title VI has helped to provide one of the foundations for New Jersey's own Environmental Justice Executive Order.

Unfortunately, the pollution disparities among our communities, especially in our urban areas, adversely affect the health, education, economic development, jobs, housing stock, and general quality of life for those that live in polluted communities.

Environmental justice is the right to a safe, healthy, productive, and sustainable environment for all, without regard to race, ethnicity, color, or economic status. Environmental justice demands fair treatment for all populations of people, and this is true in the workplace, as well. Many workers of color are more exposed to toxins in the workplace than their white co-workers. Others have jobs, such as school bus drivers and garbage collectors, which disproportionately expose them to environmental hazards.

It's good that we are having a hearing today on environmental injustices, but we also need to put forward some more solutions. And there were some really great ones that were offered earlier, and I support them wholeheartedly, as does the Work Environment Council. But I'm going to look at, a little bit, some of the legislative potential solutions to these problems. I co-chaired Governor Corzine's Environment Transition Policy Group, where we developed recommendations regarding environmental justice, which I do believe are relevant to the thrust of this hearing today. And then more detailed recommendations were developed by the Policy Group's "Protecting New Jersey's Communities" Subcommittee, and they're attached to my testimony that was passed out to you. Some of those recommendations are as follows:

The remediation of brownfields, and brownfields redevelopment and site remediation as well. And brownfields redevelopment are a huge problem in New Jersey, that have been alluded to. Many of the brownfields, of course, are located in our cities and long overdue for cleanup and new uses. Taxpayers, rather than polluters, are paying for a lot of the hazardous waste cleanups. Monies allocated for Abbott school districts are being depleted for cleanups rather than used for school renovations and construction projects. And too many sites in our cities are inadequately cleaned up, such as with an old gasification plant in

Long Branch that was mentioned. This "cap, pave and wave" cleanup system is inadequate, and causing many health and quality of life problems in our urban areas.

Also, the public was stripped of it's right to have input on brownfields cleanup and redevelopment projects by the Legislature in 1993. The DEP was also stripped of many of its powers to oversee brownfields cleanups. And we suggest that the Legislature should restore DEP's pre-1993 authority to select remedial actions at the sites; compel a responsible party to implement a permanent remedy; and make the system more open to public input. Also, legislation should be passed that curbs the abuse of eminent domain for redevelopment projects.

Ballot question number two, which we're going to fill out in November, will help preserve urban parks and historic sites. But we also need to have a law that requires that a percentage of open space be preserved for every portion of land use for redevelopment in urban areas.

Dr. Sheats also spoke about calling for a moratorium on the issuance of new pollution permits in communities that are already known to be overburdened with disproportionate pollution. And we support that; that's a really good idea, and that should be done. We also need to make sure we pay particular attention to permit renewals so that we don't cause random closings of facilities in these communities. And we do have economic considerations to take into consideration as well.

The air permit pollution process itself needs to be revised, because the public really, now, is only notified usually about proposed projects coming in the community long after many steps have been taken and the deals already been done. That's way too late. The public should be notified early on, and have an equal opportunity to be part of decision making about these facilities coming to their neighborhoods, and whether or not it's a good idea to let them in.

New Jersey Environmental Justice Executive Order ends, by the way, in 2009. The Legislature and Governor need to begin working with environmental justice advocates on the possibility of creating an overarching environmental justice bill that would strengthen and institutionalize permanent environmental justice remedies.

So, Assemblyman Payne, I'm really glad to hear you say that you would like to continue having us work together on these issues.



And by the way, cumulative impact -- the Environmental Justice Advisory Council has been working with EPA on a proposed "science for action" forum that would begin to really tackle the cumulative impact issues. We kind of put that on the back burner for a little bit, but we want to revise it again next year and see if we can really make that happen; and bring in people to begin that dialogue there, so we can develop mechanisms to measure cumulative impact that would help, and justify, and lead to actions that prevent more pollution coming in to neighborhoods that are already overburdened.

I also know that there might be others that have things to say, so I'm going to stop here. And Assemblyman Payne, I also left, with Jim, a copy of a documentary of environmental injustices in New Jersey that I recently developed, for you to have in your files as well.

So thank you very much.

ASSEMBLYMAN PAYNE: Thank you very much. Let me just ask you one question.

You mentioned specifically, in Paterson, a company that released a cloud--

MS. CAFFEE: It was cresol.

ASSEMBLYMAN PAYNE: And this same company had been cited in the past as well?

MS. CAFFEE: Yes.

ASSEMBLYMAN PAYNE: What happened after this, how long ago was this incident?

MS. CAFFEE: I believe that was about 1998.

MR. CARRINGTON: School 20.

MS. CAFFEE: Yes. School No. 20. Mr. Carrington did a lot of work in Paterson during that time, as well, so his memory is a little bit better than mine on the issue. At that time he also worked with me at the Environment Council.

When that incident occurred, that was sort of like the alarm went off with everybody -- New Jersey DEP, the EPA. And also, there was a criminal investigation that took place because it was such a negative act; again, with a company that had been fined previously by the DEP. And then to have this happen to school children and personnel, and to have to evacuate a neighborhood on top of it. So everybody really came down hard after that. And when people went in to inspect, they had to put on the hazmat suits to even go over there, and so on.

ASSEMBLYMAN PAYNE: They're not still in business, are they?

MS. CAFFEE: No. And the owners went to jail.

VICE CHAIRMAN STEELE: That's what happens when they do it in Paterson.

ASSEMBLYMAN PAYNE: Thank you very much.

Okay. Next is Mr. Pringle.

D A V I D P R I N G L E: Thank you, Mr. Chairman. Again, my name is David Pringle. I'm with New Jersey Environmental Federation. I work with Kim, and I wasn't able to be here when she was up here, because I was working on the site remediation bill.

First, I want to thank you, Mr. Chairman, for holding this hearing. I've been doing work down here in Trenton on environmental issues since 1988, and to the best of my recollection, this is the first hearing ever, at least since 1988, on environmental justice. And that's a credit to you and, I would also argue, of course a discredit to the Legislature that it's taken this long. So thank you for your leadership.

The basic definition of environmental justice or environmental racism is unhealthy levels of pollution, and disproportionately or cumulatively impacting low-income and minority communities.

One of the things that folks argue against this is, well, it's a cause and effect. You know, some would argue that, well, these areas were industrial; you have residences near them. That's less attractive, so they're more affordable, they're cheaper, and therefore folks that are low income then move in there. And so almost arguing that they have no one to blame but themselves, because they choose to live there because that's where they could afford.

One, I would reject that on a couple of levels. One is, very often -- all too often, the residences were there first. But more importantly, it misses the point. It doesn't matter why it is -- I mean, it does matter. But what matters much more than why it is, is that it is. It's unacceptable, and it needs to be remedied. And we have all too often failed to remedy these kinds of situations. And Kim kind of gave you a lot of that on-the-ground testimony, and I wanted to talk from kind of a statewide policy perspective, a little more depth on the six areas that we've been working on. Valorie mentioned several of them as well, that

we'd like to -- we'd appreciate working with the Committee to move forward.

The first is on giving DEP more authority to say "no" to cumulative and disproportionate impacts. Governor Corzine committed to doing this during the campaign, and we would like to see the Legislature work with the Governor, the DEP, and with the community -- to the degree that they already have the power, to embolden them; and to the degree they don't, to provide the statutory authority to do so.

Second is on diesel pollution. We made a significant step in the right direction last year by providing some funding to retrofit public vehicles, but that's only about a third of the problem. Diesel pollution is a major, major problem, disproportionately impacting low-income areas, minority communities, and urban areas. And there's one thing the Governor could do, which is an Executive Order requiring any contractor -- public contractor to have to retrofit. And we think that would be entirely appropriate; and I think, with some legislative support, I think DEP would move forward in that direction.

We do also need to go after the private vehicles that aren't publically contracted, and we do need legislation for that; and that would be the next step (indiscernible) what we did last year. And I know the two, Assembly and Senate Environmental, Chairs wanted to go in that direction, and that's what that original bill did. But one step at a time. We couldn't get it all in one full swipe, so we took as much as we could last year.

Third is around eminent domain. We do strongly support a moratorium on the use of eminent domain for development for private interest purposes until legislation is passed that rectifies the situation. It seems, I know the Assembly has already acted on the Burzichelli legislation, and we oppose that legislation. It does make a bad situation less bad, so in that sense it's a step in the right direction. But it doesn't go nearly far enough. It doesn't ban pay to play in the redevelopment process; it doesn't ensure a net increase in affordable housing; and it doesn't adequately provide compensation and displacement -- and avoid displacement of would-be victims of eminent domain. And all too often, victims of eminent domain are minority communities and low-income areas.

The bill is now in Senator Rice's Committee, and we're confident that when-- Senator Rice's vision is very different than

Burzichelli's. Unfortunately, for our position, we think it's even worse than Assemblyman Burzichelli's bill is now. And whatever the result is in the Senate, we're confident it's going to come back in a different form, so you all have another bite at the apple if and when that happens. And we do need something happening on that front.

ASSEMBLYMAN PAYNE: Dave, did I misunderstand when you said Rice's legislation is worse than--

MR. PRINGLE: Right. And we even oppose the Burzichelli bill. So we have a lot of work ahead of us.

ASSEMBLYMAN PAYNE: Explain a little bit more.

MR. PRINGLE: Yes. One is -- I mean, the basic argument on eminent domain is you can only use eminent domain for public good. Well, increase-- You know, having higher revenues, through property tax funding going to municipal coffers, is a public good. However, where do you draw the line? You know, you have a very stable -- and Cramer Hill, Camden is a terrific area. It's the most stable neighborhood in Camden. It's working class, it's very Hispanic. And it's the first area that-- And the entire city of Camden is targeted for redevelopment and under the threat of eminent domain. And that's bad enough; but the first neighborhood they're going after is the most stable community in that town. The would-be developer is a major, major funder of the Democratic Party in Camden, and it's an inherent conflict of interest. It certainly doesn't pass the smell test, and that's what we should be looking at. But I think it goes even further than that. It's pretty clear that there's pay to play going on here, and it's not appropriate. And any kind of eminent domain reform, to be credible, needs to separate the funding of local elections and redevelopment at the local level.

Second, there's a reason that when there are areas of blight-- And if you ask 10 people, you probably get 10 definitions of blight. And so there's a lot of debate about what the appropriate definition of blight is. But you know, there's a reason that folks choose to live in an area that some people would term blighted. First, it's their home; and regardless of what other folks think of it, it's their home and they have a right to it, and we need to be sensitive to their rights. Second of all, these are generally low-income folks, and they probably can't afford to live in "nicer areas." And so what's the first thing a town does when they come in and use eminent domain for economic development? They kick out the folks that are in the least position to

afford a better place, and tell them, "You're gone," and they move other folks in; they're displaced. It gets gentrified, and you're just kicking the problem down to somebody else. And chances are, the folks that got kicked out are going to be in a worse place than they were when they got kicked out, because that place, according to the town, wasn't nice enough and needed to get fixed up.

And ultimately those are the folks that need the most help. And you would think that if you're going to be providing economic development in low-income areas, you'd want to give the greatest leg up to affordable housing. So at a minimum, if you're going to use the incredible power of eminent domain, you should be assuring, at the very least, there's a net increase in affordable housing for the folks that are being displaced.

And the Burzichelli legislation does -- it evolved. It was amended several times. And each round it got better. It did improve significantly. It was getting close, but it still needs to be polished some more, especially around pay to play, and to assuring a little bit more affordable housing. The Public Advocate came out very strongly in the Assembly process in talking about: those were the two major flaws remaining in the bill. And the process that-- You know, Assemblyman Burzichelli led a very open, and fair, and very good public process in developing legislation. We just disagree with the end result.

The fourth point I want to focus on is open space. Valorie mentioned we have the parks question on the ballot this year. We've done a terrific job in the last 10 years with preserving open space. We've done a lousy job maintaining and operating the open space that we do have. And it has shifted in the last few years, but over time and overall, urban areas haven't gotten their fair share of the Garden State Trust.

ASSEMBLYMAN PAYNE: Have not gotten?

MR. PRINGLE: Have not gotten their fair share. And so we need-- The Garden State Trust is now out of money, so we need that renewed. We need it strengthened to continue doing the great work it was doing; but also to fill in the holes where it hasn't done such a great job around providing the funds to acquire urban parks. That's even more expensive, because cities are generally more expensive than greenfields. But the green space in cities are needed even more, arguably, than in the

more rural areas, even when those rural areas are our drinking water supplies.

ASSEMBLYMAN PAYNE: Just on the CBT set-aside legislation, we were trying to find out what percentage of the money that will be set aside will go for urban parks?

MR. PRINGLE: It isn't spelled out in the constitutional amendment, so that will get worked out in the enabling legislation, assuming the question passes.

ASSEMBLYMAN PAYNE: Discussions need to be held prior to, so that people know -- urban areas are quite interested and aware that money is being set aside, earmarked for that.

MR. PRINGLE: There's been, too, how much is urban-suburban versus rural, and how much is state versus local -- similar but different variables.

ASSEMBLYMAN PAYNE: What's been the case in the past, how much urban?

MR. PRINGLE: Under the Whitman administration, it was -- despite the opposition from the environmental community -- urban areas didn't get their fair share. I forget the exact split. Jeff might know it off the top of his head.

And then, when the McGreevey administration came on, it kind of flipped. You might make an argument, at least on the open space side, that some of the rural areas might not be quite getting their fair share. But if you look at the tally of the 10 years, too much one way -- the first five years, maybe a little too much the other way -- the last five years it evens out. So how about making it even out every year?

And, again, we've been spending about -- because we were able to capitalize the funds in the Garden State Trust -- the income stream was 98 million a year. We've been spending about 200 million a year because we were able to capitalize that. And that's, again -- that's not enough for what our needs are now. We estimate the needs are -- we need to be spending about 300 to 350 million a year, and we would need a dedicated revenue stream on the order of \$150 to \$200 million a year to match that. So we need more than was matched in the last 10 years; and that -- the money we've been using for the last 10 years is reserved for the next 20 years, to pay off the bonds that we used and spent for the last 10 years. And by no means am I suggesting that we spent that money poorly the last 10 years. There's always -- you can argue about this

project or that project. By and large it was spent very well. The problem was, we needed more than 98 million 10 years ago, and we need to impart -- to make up for it, we need to spend 300- 350 million a year for the next 10 years. And that's a big chunk, given the budget situation; but we need to find a way.

Two last points, and I'll try to be brief. On chemical security -- which often very disproportionately impacts on low-income and minority communities because of the locations of the largest chemical plants, especially in eastern Union County, and Hudson, and eastern Essex County areas, and Camden. Governor Corzine made, you know-- Arguably his hallmark as a U.S. Senator was on the issue of chemical security. And unfortunately, because of unenlightened leadership of the Bush administration, he was able to raise the profile of the issue but couldn't get it across the goal line nationally. But he made strong commitments in the campaign. And I think the DEP, and the Homeland Security folks, and the Governor's Office (indiscernible) strong support for more chemical security controls; especially inherently safer technology, when it's viable, would go a long way to address that problem.

And then finally, on site remediation, we very much support the comments that Valorie Caffee was mentioning. The reason I wasn't here at 2:00 was because the Assembly Environment Committee was holding hearings on site remediation; the Senate Environment Committee had them this morning as well. There's a tragedy down -- in August it came to light -- in a daycare center called Kiddie College, a mercury plant factory turned daycare center. Nobody bothered cleaning out the mercury everywhere. Mercury is now confirmed at toxic levels in some of the kids' blood, and those kids have already suffered health consequences as a result. Unfortunately, we fear that Kiddie College -- I don't want to say it's the norm, not the exception. It's, we're fairly confident -- it's the tip of the iceberg in a lot of problems out there.

The 1993 reforms that Valorie mentioned, and even worse, the 1997 reforms in terms of changing houses, states site remediation program did, cut the public out of the process, gave much more control to the owners and the responsible parties, not the state, not third parties to dictate if and when and how cleanups happen, and generally they're not happening, and they're not happening to safe enough levels when they are happening.

And the legislation that was put forward over the last week is a step in the right direction, but we would like to see that legislation move concurrently with many other reforms. Because all too often-- The silver lining in Kiddie College, as tragic as it is, is it can create momentum to fix some problems. And we want to make sure that we don't just scratch the surface here, we get to the root cause of the problems. And we're never going to get all of it fixed, and we're never going to get whatever we do get fixed fast enough. But we need to take advantage of these opportunities when they come along, to get as much done as quickly as possible. And I'd like to see that happen concurrently with the mayor and legislation. So with that, thank you again, and I'll be happy to answer anymore questions.

And I can't thank you enough for raising the profile of this issue.

ASSEMBLYMAN PAYNE: Thank you very much for your kind comments.

Assemblyman Thompson?

ASSEMBLYMAN THOMPSON: I'd like to say I agree with your position on the eminent domain legislation -- that I did vote for it. I certainly did not consider it to be the best answer we could get to the problem that we face there, but I saw it as the best legislation that we had available at this time. And I'll certainly be happy to see it improved upon.

As I consider the question -- the broad question of environmental justice, I'm faced with somewhat of a conundrum considering the City of Camden. And, of course, environmental justice, we say, is placing environmental inequities upon minority or low-income people in areas. The City of Camden, of course, is primarily -- the major portion of the population is various minorities. And there have been reports that have rated the City of Camden as the poorest city in the nation. Of course, to come out of this low-income rating area, people need jobs. So the question is, how do we take these two things -- clearly anywhere you build in Camden you may well be impacting upon minorities or low-income people. So how do we take these two things and resolve both problems? Do we totally restrict construction of manufacturing facilities and such, or do we insist that they all be 100 percent clean? That's the only solutions I see -- one of the two.



MR. PRINGLE: I think, fortunately or unfortunately, I think the solutions are more complex than that. I think you can-- In a case like South Camden, St. Lawrence Cement came in under a-- South Camden, for those who don't know, has a jail, it has sewer plant, it has a garbage incinerator, it's right along the port. I'm probably forgetting, off the top of my head, two or three other major polluting industries that are in the immediate neighborhood. The place stinks because of the sewer plant. It's one of the smelliest sewer plants in the state. So that's the situation--

ASSEMBLYMAN THOMPSON: Are you saying that there are other sites in Camden that would have been appropriate for it then?

MR. PRINGLE: I'm saying -- let me just finish. So that's the scenario in South Camden. Along comes in this company, St. Lawrence Cement -- they have a major air pollution problem in that area -- along comes St. Lawrence Cement who wants to provide some jobs. But the permit they were seeking would have added to the pollution. They could have operated under that plant with tighter controls, but the state didn't have the authority to mandate them. And the plant didn't have the -- didn't feel the moral responsibility to do the right thing. They could have been economically successful in doing the right thing, but they opted to not do the right thing -- create the jobs, but put people's health at risk.

In that instance, they could have had a successful plant, put on better controls, not added to the problem, maybe even alleviated some of it. But they opted to--

ASSEMBLYMAN THOMPSON: My question is not about St. Lawrence Cement. I'm talking in general--

MR. PRINGLE: You're talking about jobs versus the environment. In that instance, St. Lawrence Cement could have added jobs and could have not made the problems worse. They added the jobs, but they made the air pollution problem worse.

ASSEMBLYMAN THOMPSON: So what you're saying, then, is that the solution is to see that the controls exerted over any construction is greater -- which I said is going the direction of 100 percent?

MR. PRINGLE: As a general, yes. And I would also argue that when you do that, and you factor in all the costs, it's cheaper to society because of the health care cost and everything else. On a bad air

day, there's a significant spike in emergency room visits by asthmatics. I should have had the stats.

ASSEMBLYMAN THOMPSON: But again, the bottom line is, yes, go ahead and build, but be sure that the facilities are adequately placed and they're not going to--

MR. PRINGLE: Make sure that the standards are appropriate and that the standards are complied with, yes.

ASSEMBLYMAN THOMPSON: Okay. Thank you.

ASSEMBLYMAN PAYNE: I imagine, also, what we might do in a situation like that is you weigh, "Is this the one that's going to tip the scale?" If the area already has a number of conditions that are impacting it in a negative way and it's overburdened already, then you need to draw the line somewhere, I would imagine. And if I'm correct, I think it was only providing 15 jobs in the area anyway. So it's not like they brought in a bunch of employees, it was 15 jobs--

ASSEMBLYMAN THOMPSON: Mr. Chairman, my question was not specifically related to the concrete plant, but the broader picture.

ASSEMBLYMAN PAYNE: Right. Right.

MR. PRINGLE: Let me just add to that, because another part of the solution would be if DEP had the authority, rather than-- You're right, St. Lawrence Cement isn't the only bad actor or isn't the only part of the problem. They're just the ones coming in now. So maybe the solution isn't to put all the burden on St. Lawrence Cement. If DEP had the authority, and we want St. Lawrence Cement to come in-- They're going to add to the pollution burden, so let's have them put the best controls in. But since they're coming in and providing some benefits, maybe we should tighten up the controls at the other plants in the area so that St. Lawrence then can come in, but not add to the pollution.

ASSEMBLYMAN THOMPSON: That's what I'm looking for, how do we deal with the broad picture to see that we get the jobs in that we needed there, at the same time don't make things worse there.

MR. PRINGLE: One of the problems is that DEP looks at things individually, looks at each plant in isolation, looks at each process of that plant in isolation, looks at each chemical in isolation. It doesn't look at the fact that maybe this sulfur dioxide here and the nitrogen oxide there individually aren't a problem, but taken collectively they are. And some of that is because they have their blinders on. Some of that is because the legislation requires them to have blinders.

ASSEMBLYMAN PAYNE: Thank you.

ASSEMBLYMAN STEELE: Mr. Chairman, I was just going to say the overriding fact is, we should never compromise justice for jobs. If we're going to do the right thing, then we'll fulfill justice, whether -- so the environmental alone does not stop the process of growing jobs.

ASSEMBLYMAN PAYNE: I think Assemblyman Thompson's questions were along those lines.

ASSEMBLYMAN THOMPSON: I was not, again, saying to compromise. Yes. I'm saying, where is the solution? We need both.

ASSEMBLYMAN STEELE: I wasn't addressing--

ASSEMBLYMAN THOMPSON: We need a clean environment and we need jobs, so how do we put it all together?

ASSEMBLYMAN STEELE: And I concur with you. I was not addressing you in a debate form. I'm just saying the overriding factor, you know-- Because if we do not do the right thing, the health factor is still at play, and that's not a supplement for jobs. So if there's going to be a balance -- if it's going to be clean, let's let it be clean. There's no other definition for clean, but clean. You know, once we compromise the integrity of the standards then we compromise the health of the community.

MR. PRINGLE: There is a debate on what clean is. I mean, in 1997, one of the debates was, how clean is clean?

VICE CHAIRMAN STEELE: Clean.

MR. PRINGLE: No. What is the acceptable -- when do you say you have to clean up contamination? Do you have to eliminate all cancer risks? Right now the law is one in a million. One in a million isn't safe. It's just less dangerous than one in a hundred thousand or one in ten thousand. But it's less safe than one in 10 million. So there is a balancing act that you have to figure out there.

ASSEMBLYMAN PAYNE: I don't think we want to open the discussion to what is the definition--

MR. PRINGLE: That was a huge debate in 1997: How clean is clean?

ASSEMBLYMAN PAYNE: There were some other debates. I think that what we certainly need to do, number one, there needs to be collaboration. One hand needs to know what the other is doing. We need to have a cumulative approach to this thing because, as we said, if in fact we isolate or if people have blinders on, that impacts in a very

negative way, on the entire community. And I think that if we have communication between the two-- If we have the one hand doesn't know what the other is doing, then we have these problems.

But when it's blatant, it's obvious, as in the case of Camden, that the Government has an obligation and responsibility to provide for the citizens that are there. And someone mentioned pay to play. I'm not sure if there was anything like that involved here. But we certainly need to make sure that we have the best for all the citizens, and that we do not, as is the case now in too many areas -- it's the poorest, and minorities, and people of color that are the ones that are dumped on repeatedly. And I think, in the interest of justice, that we need to continue to look at this issue. And I hope that we'll be able to bring some improvements in the delivery of services and protection for the citizens of this state and elsewhere. And I again encourage organizations such as the Black Issues Convention, and NAACP, and other advocacy groups to make sure that we continue to focus on those areas of responsibility. The Legislature has some areas of responsibility, and certainly the administration and various departments do as well. And we have to make sure that we're all doing our jobs and we do our jobs. And as you point out, that in the long run we may be able to provide some kind of economic improvements for some people; but if, in fact, the health becomes deteriorated and it costs more for us to cover the health costs for people who are, so-called, benefiting from these jobs, then we have to weigh these two. And I think we have to always come down on the side of the health of the people.

MR. PRINGLE: If I may, one more very brief point. I neglected to mention another promising angle in addressing this problem. Valorie mentioned President Clinton's Executive Order of 1994, that basically said -- was the finding of environmental injustice as discrimination under the 1964 Civil Rights Act.

In 2001, the U.S. Supreme Court unfortunately overturned that Executive Order. Senator Menendez has just produced legislation to overturn the U.S. Supreme Court decision overturning the Executive Order. So to make a discrimination finding under the Civil Rights Act would be a significant step forward.

ASSEMBLYMAN PAYNE: Thank you very much. This hearing certainly is highlighting or bringing out a lot of the areas that we sometimes take for granted.

One of the things I need as we conclude -- and here is a picture of a playground, a playground that should be providing recreation and a healthful experience for our children. But it is in a contaminated area, or may be contaminated with lead paint. Cribs that are imported from other countries have lead paint on them. There have been recent cases where babies' cribs that are manufactured elsewhere come into this country with lead paint on them, and things of that nature. So we always have to remain vigilant. Obviously there's a lot more that needs to be done here. We need to have your help, your direction, your guidance in helping to make sure that we come up with legislation, regulations, etc. that will make this a safer and more fair environment in which we live.

I would just like to close by saying: The difficult we'll do right now; the impossible will take a little while.

Thank you very much.

This hearing is concluded.

(TIME NOTED: 3:56 p.m.)