Exhibit G

FINAL REPORT

Submitted to:
Albuquerque-Bernalillo County
Air Quality Control Board

By:
Environmental Justice Task Force

March 12, 2008

Executive Summary

Why the Environmental Justice (EJ) Task Force was formed: The purpose of EJ Task Force is to provide recommendations to the Air Quality Control Board (AQCB) to address environmental justice concerns in Albuquerque and Bernalillo County. The EJ Task Force recommendations relate primarily to ***air quality.***

Scope of the EJ Task Force:

- Develop recommendations to implement the EJ objectives of the Task Force (i.e., immediate, short-term, and long-term recommendations)
- Identify barriers to implementing recommendations (e.g., data access and availability, training needs)
- Identify/develop a check list or other qualitative analysis for EJ regarding air quality
- Identify existing models (quantitative and qualitative analyses) for analyzing cumulative effects

Challenges of the EJ Task Force:

- Timeframe
- Varying stages of knowledge by different Task Force members on the various issues
- Diversity of Task Force members created a heightened potential for conflict
- Directives from the AQCB were broad in scope
- The Task Force was unable to set time frames for the recommendations

Key Task Force Recommendations - By Priority:

1. Support the adoption of environmental assessment provisions in regulations, statutes and ordinances at the state and local level.
2. Monitor sources to ensure that modeled emissions are reflective of actual emissions.
3. Explicitly consider EJ and cumulative impact in the permitting process and regulation.
4. Strengthen enforcement of regulations and permits.
5. Collaborate with the AQCB and the Environmental Improvement Board (EIB) to create new regulations or modify existing regulations.
6. Improve the monitoring network so that air quality at the neighborhood level can be assessed more effectively.
7. Ensure that human health and environmental monitoring data are collected, available, and analyzed appropriately through a collaborative center.
8. Create an EJ ombudsman position.
9. Ensure that membership on appointed boards and commissions accurately reflect composition of the community.

EJ Task Force Members

Jens Deichmann, AQCB
Maria Dominguez, AQCB Attorney
John Dufay, Albuquerque Public Schools
Doug Heatherly, Industry Representative
Lora Lucero, Land Use Planner and Attorney
Margaret Ménache, UNM, Family and Community Medicine Program
Amy Miller, Public Service Company of New Mexico
Felicia Orth, State Hearing Officer
Marla Painter, Affected Community Member
Debby Potter, AQCB
Kitty Richards, Bernalillo County, Office of Environmental Health
Tom Scharmen, New Mexico Department of Health, Public Health Division
Isreal Tavarez, City of Albuquerque, Air Quality Division
Joe Valles, West Side Coalition of Neighborhood Associations

Richard Moore, Affected Community Member, could not attend due to other obligations

Rosemary Romero, Facilitator

Recommendations

Environmental Justice (EJ) Objectives of the EJ Task Force

The purpose of these objectives is to provide recommendations to the Air Quality Control Board (AQCB) to address EJ concerns in Albuquerque and Bernalillo County. The following objectives relate to ***guidelines for air quality.***

Information included in this document was partially adapted from the following documents:

California EPA Policies: http://www.arb.ca.gov/ch/programs/programs.htm
EPA Region 6: http://www.epa.gov/earth1r6/6dra/oejta/ej/index.html

The EJ Task Force was provided with a list of seven objectives that were adopted by the AQCB at their Board meeting on 11 July 2007. After some discussion on the most effective way to develop and summarize its recommendations, the EJ Task Force decided to use the objectives, as adopted by the AQCB. To capture an alternative way of grouping the issues or problems and their recommended solutions, the tables of this report include a column labeled 'key concepts'. The key concepts represent the general overlying themes for specific problems, issues, and solutions. Key concepts include recommendations such as revising the permitting process, creating new policies, conducting assessments, and developing partnerships, to name a few.

The report is structured as a series of seven tables corresponding to each of the seven objectives. The objective is briefly stated and is followed by a vision statement of how things would look in an ideal world. The table itself has four columns corresponding to: key concepts, the statement of the issues/problems, strategies for recommended actions, and a suggested recommendation for a likely responsible party to implement the recommended action.

The report is the result of a collaborative process and presents a variety of stakeholder concerns and recommendations. Overall, members of the EJ Taskforce support the recommendations as presented with some concerns about the future implementation of the recommendations which will require policies that may be developed without the opportunity for review or comment.

ective 1: To identify opportunities for *integrating EJ* in .ir quality programs, policies, and regulations of the City d County.

Vision: Albuquerque and Bernalillo County will consider EJ issues as they set priorities, identify program gaps, and assess the benefits and adverse impacts of their programs, policies, and regulations. Every person will be equally protected from environmental hazards. The programs will be comprehensive and include:

- adopting regulations
- identifying disproportionately affected communities
- funding clean air projects through incentive programs
- assessing current processes for air monitoring and emissions assessments
- improving enforcement
- facilitating employee training
- collaborating on research
- conducting public outreach and education

Key Concept	Issues/Problems	Strategies/Actions	Recommended Responsible Party
Policies	1. The AQCB policies, procedures and bylaws do not fully address EJ issues.	1. Incorporate EJ principles in AQCB policies and procedures.	1. AQCB
Policies	2. The current regulations have limited mechanisms to address EJ and cumulative impacts.	2.A. Adopt AQCB Title 20 Environmental Protection, Chapter 11, Part 72, Cumulative Impacts and EJ (Attachment 1). 2.B. Finalize the public involvement plan (PIP) required under the EPA implementation regulations of Title VI. 2.C. Adopt environmental assessment provisions at the local government level. 2.D. Advocate for environmental assessment provisions at the state level.	2.A. AQCB 2.B. AQD 2.C. AQCB 2.D. NM State Legislature
Permitting process, Policies, Community involvement	3. Communities do not feel that their input is considered in decisions that directly affect them.	3.A. Require participation of all stakeholders, including industry, agencies, and community members, early in the permitting process. The public should know about a potential interest in a permit application as soon as the agency does. 3.B. Develop regulatory language that explicitly states how public comment will be considered in permitting decisions. 3.C. Create an ombuds position to act on behalf of the	3.A. AQD 3.B. AQD and AQCB 3.C. City Council and

ective 1: To identify opportunities for *integrating EJ* in ir quality programs, policies, and regulations of the City J County.

		community and as a liaison between County and City staff.	County Commission
Legal authority and responsibility	4. Differing interpretations exist on the AQCB's authority to consider EJ, cumulative impacts, public health, and public comment as part of their decision making process.	4.A. Review the Attorney General's (AG) Opinion on the AQCB's authority to consider EJ, cumulative impacts and public comment when it becomes available. 4.B. After the Vulcan decision by the Court of Appeals, the AQCB is urged to have a public workshop with counsel to review the ruling and the AG's opinion to hear different perspectives on their discretion.	4.A. AQCB 4.B. AQCB
Assessment	5. Disproportionately burdened, minority and low-income communities have not been systematically identified and mapped.	5. Use a variety of tools, including GIS, to identify overburdened communities, based on minority and low-income status, and provide equal protection for these communities (Appendix A).	5. NMDOH, BCEH, AQD

'ective 2: To identify opportunities to *strengthen outreac 'd education efforts* in all communities, especially disproportionately affected communities, so that all residents can fully participate in public processes and share in the air quality benefits of Albuquerque and Bernalillo County programs.

Vision: Albuquerque and Bernalillo County will enhance public participation in local decision-making processes. They will:

- solicit input from communities
- develop additional information on air quality in communities
- make this information more accessible early in the decision making process
- educate communities and industries on the public process used to make local decisions

Key Concept	Issues/Problems	Strategies/Actions	Recommended Responsible Party
Permitting process, Community involvement, Assessment, Training	1. Education and outreach are needed to familiarize: a) communities with decision making processes; b) staff with community concerns; and c) staff and communities with environmental health and health data for specific locations.	1.A. Provide outreach and education via neighborhood associations. 1.B. Create a resource center at community centers for community access to health, environmental health and permitting information. 1.C. Require EJ training programs for all agency staff and Board members to learn about the effect of environmental injustice on various cultures and communities. References are found at: http://www.cjhu.org/justice_training.html http://www.fedcenter.gov/training/	1.A. Offices of Neighborhood Coordination (ONC) from city and county (Attachment 2) 1.B. City Council and County Commission, AQD 1.C. AQD and AQCB
Community involvement, Assessment	2. Boards and Commissions may not reflect the diversity of communities they are representing.	2.A. Recruit members who are representative of the community. 2.B. Routinely assess, by survey or other tools, the composition of Boards. 2.C. Assess whether there are barriers to representative Board membership, such as non-paid board position, that can be mitigated.	2.A. City Council and County Commission 2.B. City Council and County Commission 2.C. City Council and County Commission

ective 3: To identify opportunities to work with the City Albuquerque and the County of Bernalillo to reduce hea. risks from toxic air pollutants in all communities, especially disproportionately affected communities, through the *adoption of control measures and the promotion of pollution prevention programs.*

Vision: Albuquerque and Bernalillo County will reduce health risks from toxic air pollutants at neighborhood levels by:

- identifying sources of pollution at neighborhood and regional (air shed) levels
- implementing pollution prevention measures
- implementing pollution control measures

Key Concept	Issues/Problems	Strategies/Actions	Recommended Responsible Party
Policies	1. Industries have no incentive to reduce pollution below Federal or State standards in disproportionately affected communities.	1. Provide incentives to industries for pollution prevention activities.	1. NMED at State level; AQD at local level; City Council and County Commission.
Assessment	2. Air toxics are difficult to identify, measure, and mitigate.	2A. Improve monitoring capabilities. 2B. Provide community residents with equipment and training.	2.A. AQD 2.B. AQD and BCEH

ective 4: To identify opportunities to work with the City Albuquerque and the County of Bernalillo to *strengthen enforcement activities at the community level.*

Vision: Albuquerque and Bernalillo County will:

- improve compliance with air quality regulations
- assure that all complaints are promptly investigated and that feedback is provided to the public
- improve enforcement response

Key Concept	Issues/Problems	Strategies/Actions	Recommended Responsible Party
Enforcement, Policies, Training	1. There is inadequate enforcement of industrial emissions.	1.A. Increase inspection staff. 1.B. Explore the possibility of training residents in assessing stack emissions. 1.C. Increase penalties and enhance supplemental environmental projects (SEP). 1.D. Strengthen the regulations on excess emissions.	1.A. AQD 1.B. AQD 1.C. AQD 1.D. AQCB
Enforcement, Training	2. Assure that all complaints are properly addressed and responded to in a timely manner.	2. Train 311 staff on appropriate response to public complaints on air quality.	2. AQD

ective 5: To identify opportunities to assess, consider, a educe *cumulative emissions, exposures, interactive effects alth risks* when developing and implementing air quality programs.

Vision: Albuquerque and Bernalillo County will:

- consider both cumulative emissions and cumulative burdens of disease and death when developing and implementing air quality programs
- ensure compliance with permits conditions.

Key Concept	Issues/Problems	Strategies/Actions	Recommended Responsible Party
Permitting process, Enforcement, Policies, Assessment	1. Currently, there are limited mechanisms within the planning, permitting, and enforcement process that address the potential cumulative impact of air emissions. This is especially true of hazardous air pollutants, particulate matter and other fugitive emissions, and mobile sources.	1.A. Routinely monitor industries' emissions. 1.B. Increase the number of monitoring stations and assure that both point and mobile sources are included. 1.C. Adopt regulations to reduce idling of diesel vehicles. 1.D. Adopt local regulations that require environmental assessment provisions as part of the permit process. 1.E. Advocate for state-wide environmental assessment provision.. 1.F. Work with NMED on rule making to prevent excess emissions. 1.G. Require adoption and implementation of the Consistency Doctrine.	1.A. AQD 1.B. AQD and AQCB 1.C. AQCB 1.D. AQCB 1.E. NM State Legislature 1.F. AQCB 1.G. City Council, County Commission, NM State Legislature, AQCB
Permitting process, Policies	2. The permitting process does not address cumulative emissions at a neighborhood level.	2. Adopt regulations and implement procedures to consider cumulative emissions at a neighborhood level in the air quality permitting process, such procedures can follow those listed below: - EJ checklist - Environmental assessment policy (Attachment 3) - Albuquerque model (Appendix A)	2. AQCB and AQD, with assistance from BCEH
Assessment, Permitting process	3. Data from the air quality monitoring network is averaged and may not be reflective of actual air quality in the affected community at a given time.	3.A. In the permitting process, use actual and recent monitoring data from stations in close proximity to the applicant's proposed location, if available. Data from mobile monitoring units should be considered if there are no suitable or representative stationary monitoring units. 3.B. Purchase mobile monitoring equipment to obtain air quality data for the affected communities. 3.C. Increase the number of monitoring stations to assure that	3.A. AQD 3.B. AQD, BCEH 3.C. AQD

,ective 5: To identify opportunities to assess, consider, ai. educe *cumulative emissions, exposures, interactive effects ...d health risks* when developing and implementing air quality programs.

		off-site and on-site emissions within the affected community are considered in the permitting process.	
Assessment	4. The AQCB is unsure of the impact of prior permitting decisions on the affected communities and should validate applicants' model predictions.	4. Perform a statistical analysis of existing information to determine whether prior air quality permits: 1) were protective of disproportionately impacted communities, and 2) were accurate in their assessment of modeled emissions. It is recommended that this study use a random sample of permits issued in the past 10 years.	4. AQCB requests study; AQD provides data for study
Policies, Permitting process, Assessment	5. Communities that are disproportionately burdened by air pollutant emissions are not identified in such a way that they can be protected from future and current emissions.	5.A. Use GIS to map reported emissions and community demographics. 5.B. Develop and adopt statutory and regulatory language for environmental assessment provisions such as the 2007 amendments to 20.9.1 NMAC, the Solid Waste Management Regulations at: (http://www.nmcpr.state.nm.us/nmac/_title20/T20C009.htm).	5.A. AQD, BCEH, NMDOH 5.B. AQCB, NM State Legislature, NMED
Health assessment, Permitting process	1. Data on the health status of communities, including the cumulative burdens of disease and death, are not included in planning, permitting and enforcement processes. Communities that are disproportionately burdened by disease are not identified.	1.A. Access existing health data (including information on morbidity and mortality) to identify burdened communities and consider this data as part of the planning and permitting processes. 1.B. Change the permit process to include available health and welfare considerations from cumulative exposures. 1.C. Identify data gaps and implement data collection to improve the health data used in the permit process.	1.A. NMDOH 1.B. NM State Legislature, AQCB 1.C. NMDOH, BCEH, AQD
Assessment	2. Existing health burdens may create populations that are more vulnerable to risk from air pollution.	2. Collect community specific health data that will be accessible to communities and to staff.	2. NMDOH, BCEH

:ctive 6: To identify opportunities to *work with local lan e agencies, transportation agencies*, the City of Albuquer and the County of Bernalillo to develop ways to assess, consider, and reduce cumulative emissions, exposures, interactive effects, and health risks from air pollution through general plans, permitting, and other local actions in the City and County.

Vision: Albuquerque and Bernalillo County will:

- Promote partnerships and work as partners with other state, regional, and local agencies and stakeholders to ensure that we are all equally committed to eradicating environmental injustices in our communities.

Key Concept	Issues/Problems	Strategies/Actions	Recommended Responsible Party
Policies, Assessment	1. The AQCB addresses air quality and doesn't have the authority to address land-use issues.	1.A. Formalize collaboration with land-use agencies and assure that relevant agency input on potential negative or positive community impacts has occurred prior to issuing land-use or air quality permits. 1.B. Propose and implement local EJ Executive Order, modeled after state EJ Order. 1.C. Develop an Air Shed Plan that addresses cumulative impacts. 1.D. Develop collaborative grants and planning.	1.A. BCEH, AQD, AQCB and City and County Planning Commissions 1.B. City Council, County Commission 1.C. City Council, County Commission, including Sandoval, Torrance, Cibola, Santa Fe, Valencia, and Bernalillo. 1.D. UNM, NMDOH, BCEH, AQD
Policies	2. Single media and land-use zoning regulations result in the inability to address EJ issues in a holistic way.	2.A. In collaboration with the Planning Commission, review land use plans and regulations to incorporate air quality concerns to address EJ and cumulative impact issues explicitly. 2.B. Revive EPC liaison on the AQCB.	2.A. County/City Planning Commission, County/City Commission, County/City Planning Departments 2.B. AQCB, City Council
Policies	3. Comprehensive plans are not implemented and enforced.	3. Require implementation of Consistency Doctrine in order to address cumulative impacts and ensure that regulations and rules are implemented in accordance with long term land-use plans.	3. NM State Legislature, City Council, County Commission, County/City Planning Commission
Permitting process	4. Consideration of cumulative impacts adds complexity to the permitting process.	4. Criteria for permit approval or denial must be explicitly stated in the permit application guidelines.	4. AQD
Partnership	5. There is a lack of	5. Create incentives for collaborative planning, joint grant	5. UNM, City Council,

(:ctive 6: To identify opportunities to *work with local lan 2 agencies, transportation agencies*, the City of Albuquer and the County of Bernalillo to develop ways to assess, consider, and reduce cumulative emissions, exposures, interactive effects, and health risks from air pollution through general plans, permitting, and other local actions in the City and County.

	incentives for potential partners to work together.	writing, and centers.	County Commission
Partnership	6. Partnerships often have less influence than a single agency.	6. Revise regulations to require collaboration as part of the planning and permitting processes.	6. AQCB

Objective 7: To identify opportunities to support *research and data collection* needed to reduce cumulative emissions, exposure, interactive effects and health risks, as appropriate, ... all communities, especially disproportionately affected communities.

Vision: Albuquerque and Bernalillo County will:

- Cooperatively fund and spearhead implementation of a model program for research and data collection which will be followed by other communities in the country in the future.
- Contribute to a collaborative data clearinghouse that will acquire, develop and analyze databases to provide cumulative impact and health status information.

Key Concept	Issues/Problems	Strategies/Actions	Recommended Responsible Party
Assessment	1. The AQCB doesn't have the necessary resources to conduct research and data collection.	1.A. Assess existing data sets used by the City and County to develop cumulative emissions models. 1.B. Identify data needed to establish a community-specific baseline of emissions and health burdens. 1.C. Compile an expert resources list and invite these people to become part of the on-going work.	1.A. AQD, BCEH 1.B. NMDOH, AQD, BCEH 1C. UNM, NMDOH, AQD, community, BCEH
Assessment, Partnership	2. Assessments of cumulative emissions and cumulative health burdens are not conducted.	2.A. Develop and use methodology to conduct qualitative and quantitative assessments of cumulative emissions as part of permitting process. 2.B. Support the creation of a permanent, locally-based joint center for comprehensive health and environmental assessment that commits key partners and resources to the assessment process.	2.A. BCEH, AQCB, AQD 2.B. City Council, County Commission
Assessment	3. The assessment process is more time consuming than the current permitting process.	3. Support assessment processes that create multipurpose comprehensive data tools that can rapidly respond to data needs.	3. AQCB
Partnership	4. Access to multiple datasets to build comprehensive assessment tools that will be located in one place is obstructed by factors such as issues of confidentiality.	4. Use strength of partnerships to establish community rights to data and write cooperative agreements with data collectors and keepers to facilitate data consolidation in one local center.	4. UNM, NMDOH, AQD, BCEH
Assessment	5. The assessment process must include an objective	5. Support assessment processes that include community-based participatory elements and that openly involve all	5. AQCB

ective 7: To identify opportunities to support *research* *data collection* needed to reduce cumulative emissions, exposure, interactive effects and health risks, as appropriate, in all communities, especially disproportionately affected communities.

	and interactive facilitation component to assist partners in asking and answering the pertinent questions about cumulative impacts and health burdens.	partners in exploring data on cumulative impacts and health burdens.	
Assessment	6. Literature is just beginning to address the synergy between chemicals and their effects on health and welfare.	6. Review existing literature on chemical synergy, as well as the precautionary principle and provide recommendations on possible planning and permitting methodologies that incorporate this knowledge and provide this information to community residents through a resource library at community centers.	6. AQD, BCEH, DOH, UNM, community

Glossary

AQCB. Air Quality Control Board: The New Mexico State Legislature granted this Board the authority and responsibility to prevent or abate air pollution in Bernalillo County. The Board consists of seven voting members who volunteer to serve. Four members are appointed by the Albuquerque City Council and three members are appointed by the Bernalillo County Commission. On March 17, 1994, the County Commission adopted Bernalillo County Code, Section 30-32, creating the joint city-county board, establishing board membership, procedural requirements and responsibilities. See http://www.cabq.gov/airquality/aboutaqcb.html

Air shed: A geographic area that, because of topography, meteorology or climate, is frequently affected by the same air mass. See http://199.128.173.141/Flag2000.pdf

Air toxic (also known as hazardous air pollutants): Any air pollutant (for which a national ambient air quality standard does not exist) that may reasonably be anticipated to cause cancer; respiratory, cardiovascular or developmental effects, reproductive dysfunctions, neurological disorders, heritable gene mutations, or other serious or irreversible chronic or acute health effects in humans. See http://www.epa.gov/glossary/aterms.html. EPA is working with to reduce 188 toxic air pollutants pollutants. See http://www.epa.gov/ttn/atw/allabout.html

Consistency doctrine: Definitions are given from three sources.
Rhode Island Statutes: All regulations that are used to implement the local comprehensive plans must be consistent with the recommendations and policies of the plan, and state and local funding decisions must be consistent with the local plan.
California Planning Roundtable: Consistency means free from variation or contradiction. Programs in the comprehensive plan are to be consistent, not contradictory or preferential. State law requires consistency between the plan and implementation measures such as zoning ordinance.
Moorpark California: Consistency means compatibility and agreement with the comprehensive plan of the municipality and/or county. Consistency exists when the standards and criteria of the comprehensive plan are met or exceeded.

Cumulative emissions: The public health and environmental effects in a geographic area or population group from all hazardous air pollutants, particulate matter, other fugitive dusts, and mobile sources from existing facilities, known planned facilities, and the proposed facility's emissions.

Cumulative exposures: The public health and environmental effects in a geographic area or population group from all exposures, including pollution from all emissions and discharges, whether single or multi-media, routinely, accidentally from existing facilities, known planned facilities and the proposed facility.

Cumulative impacts: The public health and environmental effects in a geographic area or population group from all pollution sources and from social determinants, such as income and ethnicity status.

EJ. Environmental justice: The fair treatment of all residents (in the City of Albuquerque and Bernalillo County), including communities of color and low income communities, and their meaningful involvement in the development, implementation and enforcement of environmental laws, regulations and policies regardless of race, color, ethnicity, religion, income or education level. (Adapted from NM Executive Order 2005-056).

Morally unacceptable harm: This definition is taken from COMEST 2005: 14. Harm to humans or the environment that is:

- Threatening to human life or health, or
- Serious and effectively irreversible, or
- Inequitable to present or future generations, or
- Imposed without adequate consideration of the human rights of those affected.

Precautionary principle: When human activities may lead to morally unacceptable harm that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that harm. The precautionary principle calls for a shifting of the burden of proof.
Where the precautionary principle has not been adopted:

- people exposed to risky actions must bear the risks of such actions until it can be demonstrated that they cause harm to health or the environment.
- the people exposed to risk bear the responsibility for demonstrating that actions caused harm.

Where the precautionary principle is applied:

- people exposed to risk can ask for precautionary actions to be taken before risky actions can be proven to cause harm.
- once some preliminary basis for taking precautionary action exists, risk creators bear the responsibility of showing that actions are safe, or at least acceptably risky.

References

Publications

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Freyfogle, E.T., *Private Property - Correcting the Half-Truths*, Planning & Environmental Law, Vol. 59, No. 10, American Planning Association (2007)

Lippmann, M., *Health Effects of Airborne Particulate Matter*, New England Journal of Medicine, Volume 357:2395-2397, Dec. 6, 2007 Number 23

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Salkin, P.E., *Intersection Between Environmental Justice and Land Use Planning*, Planning & Environmental Law, Vol. 58, No. 5, American Planning Association (2006)

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Websites

A Sustainable Development Strategy for the City of Albuquerque Summary. http://albuquerquegree.com/pdfs/bestgreenpractices.doc

Hospitalization and Mortality in Albuquerque Zip Codes; A Preliminary Descriptive Analysis of Hospitalization and Deaths at the Sub-County Level. Scharmen, T.N. http://www.health.state.nm.us/pdf/ABQ-Health-and-Social-Indicator-Map-Book-v6a-e.pdf .

Website for new EJ organization: www.simplechange.org/pages.about

Local website/blog about land use issues: http://eocoposts.typepad.com/

Website for City of Albuquerque Goal 5: Environmental Protection and Enhancement: http://www.cabq.gov/progress/goal5.html

California policies: http://www.arb.ca.gov/ch/programs/programs.htm

EPA Region 6: http://www.epa.gov/earth1r6/6dra/oejta/ej/index.html

E-news letter: Petitions Urge EPA to Regulate Aircraft Emissions environmental@1105newsletters.com

Asthma study information from Tom Scharmen presentation: http://www.personal.psu.edu/users/a/u/aup162/geog586/SemesterProject/SemesterProject.html.

Other materials reviewed by EJ Task Force members

City of Albuquerque air quality ordinance

Environmental Health Report Card for the City of Albuquerque and Bernalillo County

"Rhino Case" information

Albuquerque Journal – Westside edition, Thursday, October 25, 2007. *Mountain View Battles Another Cement Permit*, Juan-Carlos Rodriguez

Article – Clovis Plant Poses Health Risks, by Wayne Roth-Nelson, Ph.D.

Margaret Menache presentation to EJ Task Force, November 20, 2007. Cumulative Risk Assessment

Kitty Richards presentation to EJ Task Force, November 20, 2000. Other State Models for Considering EJ and Cumulative Impacts.

Color-blind, Color-mute and Color-deaf: Race and Expertise in Environmental Justice Rule Making, Sofia Martínez. Submitted to the Task Force via e-mail 12/10/07.

Cumulative Impacts -- State of California information. Submitted to the Task Force via e-mail 12/10/07.

Article – Environmental Justice: Healthy Children, Healthy Communities, and a Healthy Mother Earth. Submitted to the Task Force via e-mail 12/10/07

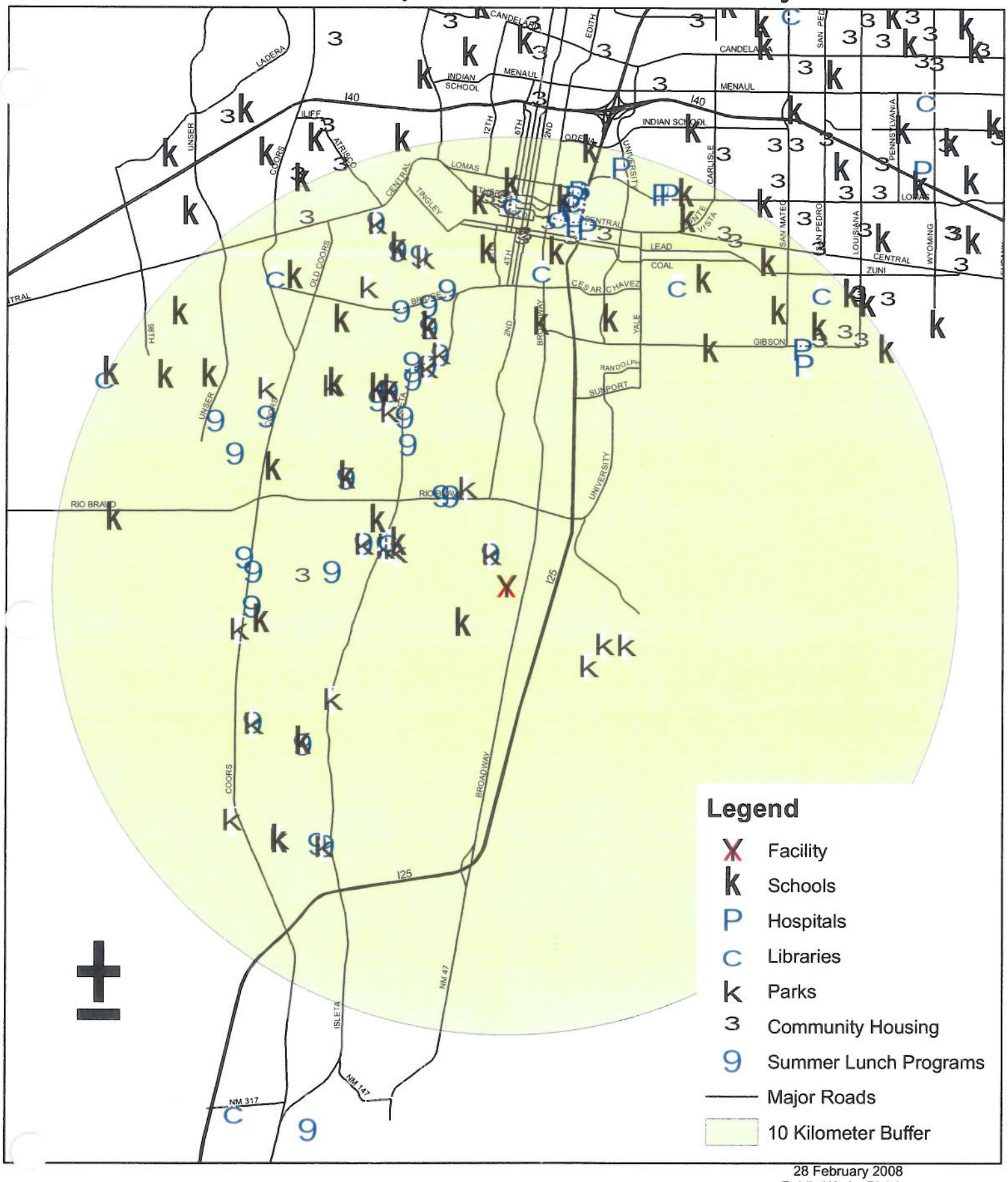
Article – Sector Plan Delayed for Businesses' Input. Submitted to the Task Force via e-mail 1/10/08.

Appendix A: Implementing Air Emissions Risk Analysis Using Qualitative Information – A Local Example: South Valley, Bernalillo County

This Appendix provides a pictorial representation of quantitative information through the use of maps. Each map depicts a hypothetical permit applicant's facility, here located in the South Valley and a 10 kilometer buffer zone (this zone can increase or decrease based on an agency's need). Overlain on this base map are: 1) locations of other permitted air emissions, 2) zoning classes, 3) land-uses, 4) sensitive populations, and 5) population density by land parcel.

These maps enable agency personnel and the Board to visually assess whether a proposed facility's emissions will adversely impact sites housing sensitive populations (shown on this map are school lunch programs, hospitals and clinics, parks, etc.), and communities having a high population density, and whether the impacted community bears a great environmental burden due to the proposed facility's emissions and other nearby existing facilities' permitted emissions. Information was easily obtained through the Bernalillo County, Public Works Division.

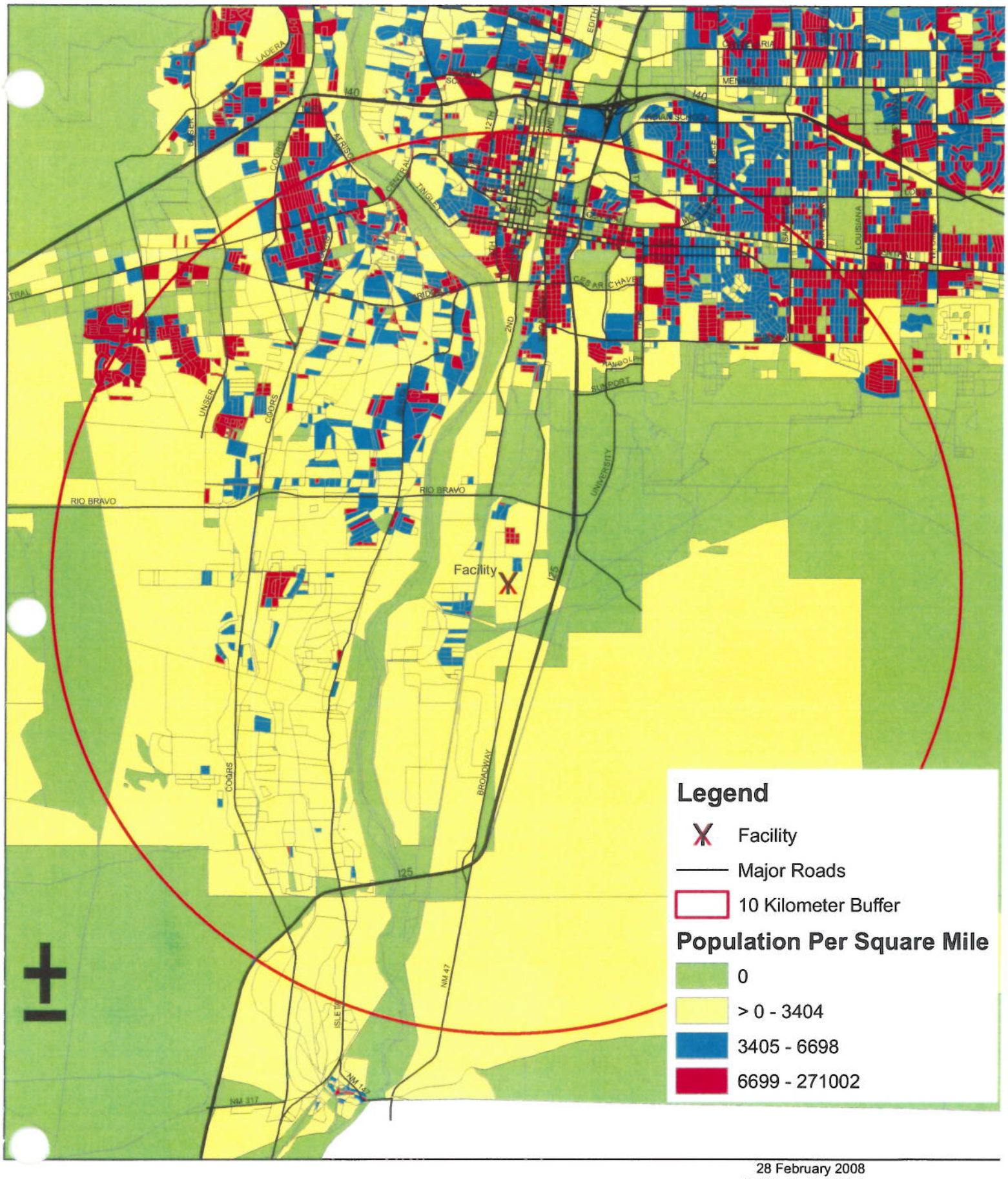
Sensitive Population - South Valley



28 February 2008
Public Works Division
GIS Program

This information is for reference only.
Bernalillo County assumes no liability for errors associated with the use of these data.

Population Density - South Valley



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GIS Program

0 2.5 5 10 Kilometers

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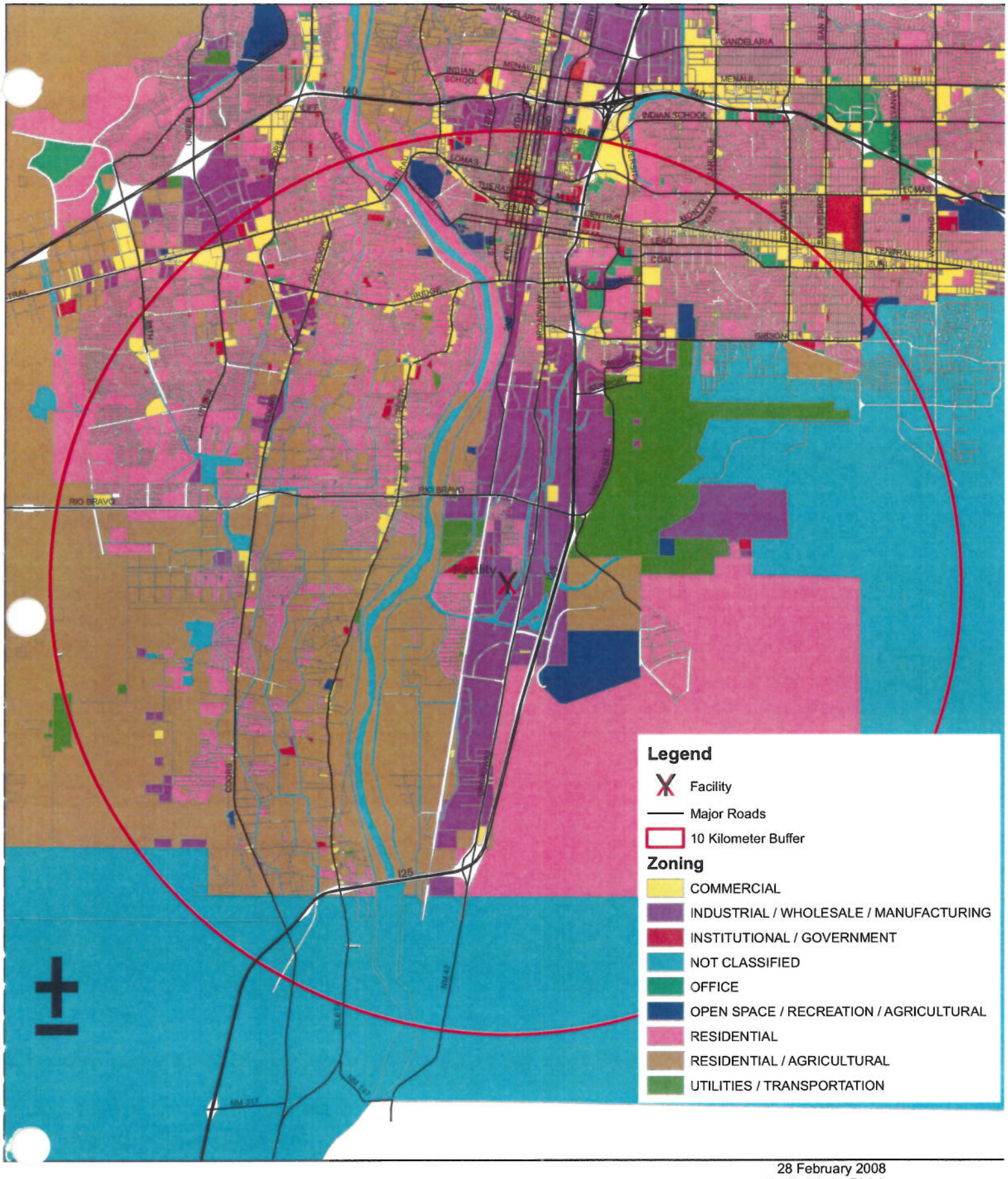
Zoning - South Valley



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GIS Program

0 2.5 5 10 Kilometers

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Location of Air Emissions - South Valley

Legend

- R EPA Air Release Sites
- X Facility
- Major Roads
- 10 Kilometer Buffer

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GIS Program

0 2.5 5 10 Kilometers

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Bernalillo County assumes no liability for errors
associated with the use of these data.

Appendix B: Environmental Justice Scorecard
Bernalillo County

This Appendix provides rankings of potential exposure to toxic chemicals by ethnicity, income, education, job classification and home ownership for Bernalillo County.

DISTRIBUTION OF BURDENS BY RACE/ETHNICITY

	(indicator of chemical releases)	Ratio
Releases of Toxic Chemicals		
People of Color	3800	1.81
Whites	2100	

	(added risk per 1,000,000)	Ratio
Cancer Risks from Hazardous Air Pollutants		
People of Color	220	0.96
Whites	230	

	(sites per square mile)	Ratio
Superfund Sites		
People of Color	.3	2.31
Whites	.13	

	(facilities per square mile)	Ratio
Facilities Emitting Criteria Air Pollutants		
People of Color	.19	2.64
Whites	.072	

DISTRIBUTION OF BURDENS BY INCOME

	(indicator of chemical releases)	Ratio
Releases of Toxic Chemicals		
Low Income Families	3500	1.30
High Income Families	2700	

	(added risk per 1,000,000)	Ratio
Cancer Risks from Hazardous Air Pollutants		
Low Income Families	220	1.00
High Income Families	220	

	(sites per square mile)	Ratio
Superfund Sites		
Low Income Families	.34	2.62
High Income Families	.13	

	(facilities per square mile)	Ratio
Facilities Emitting Criteria Air Pollutants		
Low Income Families	.21	2.88
High Income Families	.073	

DISTRIBUTION OF BURDENS BY POVERTY

Releases of Toxic Chemicals (indicator of chemical releases)

		Ratio
Families Below Poverty	3600	1.29
Families Above Poverty	2800	

Cancer Risks from Hazardous Air Pollutants (added risk per 1,000,000)

		Ratio
Families Below Poverty	220	1.00
Families Above Poverty	220	

Superfund Sites (sites per square mile)

		Ratio
Families Below Poverty	.39	2.79
Families Above Poverty	.14	

Facilities Emitting Criteria Air Pollutants (facilities per square mile)

		Ratio
Families Below Poverty	.24	2.96
Families Above Poverty	.081	

DISTRIBUTION OF BURDENS BY CHILDHOOD POVERTY

Releases of Toxic Chemicals (indicator of chemical releases)

		Ratio
Kids Below Poverty	3700	1.32
Kids Above Poverty	2800	

Cancer Risks from Hazardous Air Pollutants (added risk per 1,000,000)

		Ratio
Kids Below Poverty	220	1.00
Kids Above Poverty	220	

Superfund Sites (sites per square mile)

		Ratio
Kids Below Poverty	.38	2.71
Kids Above Poverty	.14	

Facilities Emitting Criteria Air Pollutants (facilities per square mile)

		Ratio
Kids Below Poverty	.23	3.03
Kids Above Poverty	.076	

DISTRIBUTION OF BURDENS BY EDUCATION

Releases of Toxic Chemicals (indicator of chemical releases)

		Ratio
Non-Highschool Graduates	3900	1.56
Highschool Graduates	2500	

Cancer Risks from Hazardous Air Pollutants (added risk per 1,000,000)

		Ratio
Non-Highschool Graduates	220	0.96
Highschool Graduates	230	

Superfund Sites (sites per square mile)

		Ratio
Non-Highschool Graduates	.38	2.38
Highschool Graduates	.16	

Facilities Emitting Criteria Air Pollutants (facilities per square mile)

		Ratio
Non-Highschool Graduates	.25	2.72
Highschool Graduates	.092	

DISTRIBUTION OF BURDENS BY JOB CLASSIFICATION

Releases of Toxic Chemicals (indicator of chemical releases)

		Ratio
Working Class People	3100	1.41
Non-Working Class People	2200	

Cancer Risks from Hazardous Air Pollutants (added risk per 1,000,000)

		Ratio
Working Class People	230	1.00
Non-Working Class People	230	

Superfund Sites (sites per square mile)

		Ratio
Working Class People	.19	1.12
Non-Working Class People	.17	

Facilities Emitting Criteria Air Pollutants (facilities per square mile)

		Ratio
Working Class People	.12	1.33
Non-Working Class People	.09	

Scorecard's environmental justice reports integrate information about different kinds of pollution problems with census data to identify geographic areas or demographic groups that may be disparately affected by pollution. Summary environmental justice report examine the distribution of four environmental burdens: releases of toxic chemicals, cancer risks from hazardous air pollutants, Superfund sites, and facilities emitting criteria air pollutants. Detail pages illustrate the distribution of cancer risks by race and income, and provide geographic comparisons of environmental hazards and demographic characteristics.

See limits of the data and how to interpret the data.

ENVIRONMENTAL JUSTICE LOCATOR

Scorecard provides maps at the national, state, county, and census tract levels that illustrate estimated cancer risks from outdoor hazardous air pollution and the location of three types of pollution-generating facilities: manufacturing firms reporting to the Toxics Release Inventory, facilities emitting Criteria Air Pollutant and Superfund sites. You can see whether your home, workplace, or school is located in an area where estimated cancer risks are higher, comparable, or lower than in other communities. You can also see how many polluting facilities are located in your area of interest. Charts associated with the maps provide demographic information about an area, including the percent people of color, percent families living in poverty, and percent homeownership. You can also use Scorecard's mapper to access environmental data at the most local level (i.e., for each individual census tract in the U.S.).

DISTRIBUTION OF ENVIRONMENTAL BURDENS

Scorecard uses easy-to-understand bar charts to illustrate which demographic group bears the burden of different pollution problems. Four problems are evaluated: releases of toxic chemicals, cancer risks from hazardous air pollutants, Superfund sites, and facilities emitting criteria air pollutants. Scorecard analyses the distribution of these problems using seven demographic categories: Race/Ethnicity, Income, Poverty, Childhood Poverty, Education, Home Ownership, and Job Classification. For example, Scorecard calculates whether whites or people of color live in areas with greater toxic chemical releases, and then graphically portrays the extent of the disparity, indicating which group is worse off. Further information about any environmental problems in an area can be found in Scorecard reports listed in the Links section.

LOCATOR FOR UNEQUAL IMPACTS

For any burden or combination of burdens that you select, or any group you select, this Locator will show you every county where that group of people experiences a higher impact than the rest of the population in the same county.

COMPARATIVE ANALYSES OF ENVIRONMENTAL JUSTICE

Links are provided to several more detailed analyses of environmental justice issues in an area.

DISTRIBUTION OF RISKS BY RACE, ETHNICITY AND INCOME

Is race or income the driving factor accounting for disparate environmental burdens in your state? Scorecard examines the distribution of estimated cancer risks

associated with outdoor hazardous air pollution to illustrate patterns of inequity by race/ethnicity and income. Scorecard calculates a population-weighted estimate of the average lifetime cancer risks imposed on each racial/income group by hazardous air pollutants. The Y-axis shows the estimated cancer risk per million persons, and the X-axis displays nine annual household income categories ranging from less than $5000 to over $100,000. Each line in the graph represents one of five racial/ethnic groups: Whites, African Americans, Native Americans, Asian/Pacific Islanders and Latinos. Gaps between the lines indicate potential racial/ethnic disparities in cancer risk burdens. Slopes in the lines indicate potential differences in cancer risk across income categories. NOTE: Due to data limitations, these distribution calculations are only available at the state level.

ENVIRONMENTAL HAZARDS

Scorecard provides several measures of environmental hazards which can be used to compare counties within a state, including average cancer risks from hazardous air pollutants, the number of Criteria Air Pollutant facilities per square mile, the number of Superfund sites per square mile, and the number of Toxic Release Inventory facilities per square mile. State comparisons can be made on the basis of estimated cancer risks from outdoor hazardous air pollutants, and the percentage of total Toxic Release Inventory facilities, Criteria Air Pollutant facilities and Superfund sites hosted by a particular state. Environmental hazard indicators for counties and states can be compared to demographic profiles in order to assess which communities bear the largest burden of pollution sources.

DEMOGRAPHIC PROFILES

Scorecard uses bar charts to illustrate the racial make-up of counties and states, and provide information about income, wealth, class, educational attainment, and citizenship. The demographic and socioeconomic information used for Scorecard's environmental justice analyses are all derived from the 1990 Census. The demographic profile of a county is compared to its state average, and states are compared to the US as a whole.

Downloaded from:
http://www.scorecard.org/env-releases/def/ej_report_descriptions.html#dist
on 27 February 2008.

Attachments

Attachment 1. AQCB Title 20 Environmental Protection, Chapter 11, Part 72, Cumulative Impacts and EJ - Draft Regulation

Attachment 2. Neighborhood association recognition ordinance.

Attachment 3. Environmental Assessment Policy

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TITLE 20 ENVIRONMENTAL PROTECTION

CHAPTER 11 ALBUQUERQUE/BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

PART 72 CUMULATIVE EFFECTS AND ENVIRONMENTAL JUSTICE

20.11.72.1 ISSUING AGENCY: Albuquerque/ Bernalillo County Air Quality Control Board. P.O. Box 1293, Albuquerque, New Mexico 87103. Telephone: (505) 768-2600.

20.11.72.2 SCOPE: This Part applies to all evaluations of the effects or potential effects of Air Pollution on human health and/or the environment performed in connection with any and all actions the Board or the Department consider, propose or take under New Mexico Air Quality Control Act and the Joint Air Quality Control Board Ordinances.

20.11.72.3 STATUTORY AUTHORITY: 20.11.72 NMAC is adopted pursuant to the authority provided in the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4, 74-2-5.C; the Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5 Section 4; and the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994 Section 9-5-1-4.

20.11.72.4 DURATION: Permanent.

20.11.72.5 EFFECTIVE DATE: The effective date of 20.11.72 NMAC shall be [ ].

20.11.72.6 OBJECTIVE: This regulation ensures that the Board and the Department take into account the cumulative effects of air pollution and ensure environmental justice, when they consider, propose or take any action pursuant to the New Mexico Air Quality Control Act and the Joint Air Quality Control Board Ordinances.

20.11.72.7 DEFINITIONS: In addition to the definitions in this section, 20.11.72.7 NMAC, the definitions in 20.11.1 NMAC shall apply unless there is a conflict between definitions, in which case the definition in 20.11.72 NMAC shall govern.

A. "Cumulative Effects" means the public health and environmental effects in a geographic area or population group from all pollution sources, including pollution from all emissions and discharges, whether single or multi-media, routinely, accidentally or otherwise released.

B. "Environmental Justice" means the fair treatment of the people of New Mexico of all races, cultures, and incomes with respect to all actions considered, proposed or taken pursuant to the New Mexico Air Quality Control Act and the Joint Air Quality Control Board Ordinances, including the development, adoption, implementation, and enforcement of all laws, regulations, standards, and policies.

20.11.72.8 VARIANCES: In accordance with the Joint Air Quality Control Board Ordinances pursuant to the New Mexico Air Quality Control Act Section 74-2-8 NMSA 1978, any person may seek a variance from the non-federally enforceable provisions of this Part.

20.11.72.9 SAVINGS CLAUSE: Any amendment to 20.11.72 NMAC, which is filed, with the State Records Center shall not affect actions pending for violation of a City or County ordinance, or Board Regulation 41, or 20.11.72 NMAC. Prosecution for a violation under prior regulation wording shall be governed and prosecuted under the statute, ordinance, Part or regulation section in effect at the time the violation was committed.

20.11.72.10 SEVERABILITY: If any section, paragraph, sentence, clause, or word of this Part is for any reason held to be unconstitutional or otherwise invalid by any court, the decision shall not affect the validity of remaining provisions of this Part.

20.11.72.11 DOCUMENTS: Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, 400 Marquette NW, Albuquerque, NM.

20.11.72.12 CUMULATIVE EFFECTS: Evaluation of the cumulative effects of air pollution is intended to enable the Board and the Department to do the following: 1) develop a full understanding of the current and future effects of their actions on the ecosystems and human communities in Bernalillo County and the City of Albuquerque, 2) evaluate and recognize the differences, needs, requirements and conditions within the county and parts thereof, and 3) implement the principles and goals outlined in Governor Bill Richardson's Executive Order No. 2005-056, entitled "Environmental Justice Executive Order" and President Bill Clinton's Executive Order No. 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations."

A. Whenever the Board and/or the Department evaluates the effects of air pollution on human health and the environment, the Board and Department must take into account the cumulative effects of air pollution in connection with any action the Board or the Department considers, proposes or takes under New Mexico Air Quality Control Act and the Joint Air Quality Control Board Ordinances.

B. Evaluation of the cumulative effects of a particular source of air pollution, along with other existing sources of air pollution, on the public's health and environment shall comprise evaluation, quantitatively to the extent possible and also qualitatively, by incorporating the following principles:

(1) Cumulative effects are caused by the aggregate of past, present, and reasonably foreseeable future actions; therefore the effects of the proposed action on a given ecosystem and human community must include its present and future effects added to the effects (past, present and future) of all other actions that affect the same ecosystem and human community;

(2) Cumulative effects are the total effect, including both direct and indirect, on a given ecosystem and human community of all actions taken, no matter who (federal, nonfederal, or

private) took them; therefore the additional effects contributed by actions unrelated to the proposed action must be included in the analysis;

(3) Cumulative effects may result from the accumulation of similar effects and from the synergistic interaction of different effects; therefore both additive and synergistic effects must be considered;

(4) Cumulative effects must be analyzed in terms of the specific relevant ecosystem and human community, and by developing an understanding of how they are susceptible to effects;

(5) Cumulative effects analysis on natural systems must to the extent possible use natural ecological boundaries and analysis of human communities must use actual socio-cultural boundaries to ensure proper scoping of the full extent of all effects;

(6) Since many actions can have adverse effects for many years, cumulative effects analysis must apply the best science and forecasting techniques to assess potential catastrophic consequences in the future;

(7) Each affected ecosystem and human community must be analyzed in terms of its capacity to accommodate additional effects, based on its own time and space parameters. Cumulative effects analysis must focus on what is needed to ensure long-term productivity or sustainability of the affected ecosystem or human community;

(8) In an area affected by pollution or environmental degradation, there are often certain subpopulations or environmental areas that are highly sensitive or highly exposed (such as children or workers); therefore cumulative effects on such populations or environmental areas must be evaluated;

(9) Cumulative effects analysis may encounter significant data gaps and uncertainties; therefore a cumulative effects analysis must identify and evaluate, quantitatively to the extent possible but also qualitatively, of any and all significant data gaps that may prevent complete evaluation of cumulative effects of the air pollution; and

(10) The Board and Department shall consider alternative courses of action to those considered or proposed whenever possible, and evaluate the cumulative effects of each such alternative.

C. All public participation provisions pursuant to the New Mexico Air Quality Control Act, the Joint Air Quality Control Board Ordinances and the regulations of the Board shall include providing for public participation as a critical input into all evaluations of cumulative effects of air pollution. This participation shall extend to the opportunity to provide information and raise issues of concern as an input into such evaluations as well as the opportunity to comment on draft evaluations and to seek review of final evaluations in the context of appropriate proceedings. The Board and Department will respond in writing to the information, issues raised and comments made by the public.

D. In order to continually improve its evaluation of cumulative effects, the Department shall, with public participation, prepare guidance for the evaluation of the cumulative effects of air pollution within one year and update such guidance every three years thereafter. The Department shall examine methodologies for evaluation of cumulative effects being developed by other governmental entities, including the U.S. Environmental Protection Agency, the New Mexico Environmental Justice Task Force, and the California Environmental Protection Agency.

20.11.72.13 ENVIRONMENTAL JUSTICE: Evaluation of environmental justice is intended to enable the Board and the Department to do the following: 1) develop a full understanding of the current and future effects of their actions on the ecosystems and human communities in Bernalillo County and the City of Albuquerque, 2) evaluate and recognize the differences, needs, requirements and conditions within the county and parts thereof, and 3) implement the principles and goals outlined in Governor Bill Richardson's Executive Order No. 2005-056, entitled "Environmental Justice Executive Order" and President Bill Clinton's Executive Order No. 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations."

A. Whenever the Board and/or the Department evaluates the effects or potential effects of air pollution on human health and/or the environment, the Board and Department must ensure the fair treatment of the people of New Mexico of all races, cultures, and incomes in connection with any action the Board or the Department considers, proposes or takes under New Mexico Air Quality Control Act and the Joint Air Quality Control Board Ordinances.

B. In connection with evaluating the effects on the environment or public health of any action the Board or Department considers, proposes or takes, the Board and the Department shall evaluate, quantitatively to the extent possible and also qualitatively, whether the cumulative effects of air pollution is consistent with the fair treatment of the people of New Mexico of all races, cultures and incomes. This Environmental Justice evaluation shall:

(1) Identify populations and communities suffering from disproportionate exposure to the cumulative effects of environmental threats that may be affected by the action being considered, proposed or taken;

(2) Identify populations and communities that may suffer disproportionate impacts from the cumulative effects of the action being considered, proposed or taken;

(3) Evaluate the environmental justice impact of the cumulative effects of alternatives to the action being considered, proposed or taken; and

(4) Give high priority to actions that will address environmental justice problems, including adequate deployment of enforcement resources.

C. All public participation provisions pursuant to the New Mexico Air Quality Control Act, the Joint Air Quality Control Board Ordinances and the regulations of the Board shall include providing for public participation as a critical input into all evaluations of

environmental justice. This participation shall extend to the opportunity to provide information and raise issues of concern as an input into such evaluations as well as the opportunity to comment on draft evaluations and to seek review of final evaluations in the context of appropriate proceedings. The Board and Department shall respond in writing to the information, issues raised and comments made by the public.

D. In order to continually improve its evaluation of environmental justice, the Department shall, with public participation, prepare guidance for the evaluation of environmental justice within one year and update such guidance every three years thereafter. The Department shall examine methodologies for evaluation of environmental justice being developed by other governmental entities, including the U.S. Environmental Protection Agency, the New Mexico Environmental Justice Task Force, and the California Environmental Protection Agency.

HISTORY OF 20.11.72 NMAC:

Attachment 2

NEIGHBORHOOD ASSOCIATION RECOGNITION

§ 14-8-2-1 SHORT TITLE.
Sections 14-8-2-1 et seq. may be cited as the "Neighborhood Association Recognition Ordinance."
('74 Code, § 7-11-1) (Ord. 14-1987)

§ 14-8-2-2 LEGISLATIVE FINDINGS AND PURPOSE.
(A) Early identification and resolution of potential conflicts involving neighborhoods and the private sector can be of utmost value to all concerned.

(B) A standardized recognition policy for Albuquerque neighborhood associations would promote improved communications between neighborhood associations and city government.

(C) Due to the potential impact of new development and redevelopment upon neighborhoods, it can be useful if developers coordinate major proposals and plans with neighborhood associations.

(D) The purpose of §§ 14-8-2-1 et seq. is to meet the needs specified by the above legislative findings, while not limiting the rights of any other person, including nonrecognized neighborhood groups, to input directly into the city's decision-making processes.

('74 Code, § 7-11-2) (Ord. 14-1987)

§ 14-8-2-3 DEFINITIONS.
(A) For the purpose of §§ 14-8-2-1 et seq., the following definition shall apply unless the context clearly indicates or requires a different meaning.

NEIGHBORHOOD ASSOCIATION. An organized group of people or other legal entities who own or occupy real property within a specified subarea of the city.

(B) Words not defined herein, but defined in the Zoning Code, are to be construed as defined therein.
('74 Code, § 7-11-3) (Ord. 14-1987)

§ 14-8-2-4 CRITERIA FOR RECOGNITION OF NEIGHBORHOOD ASSOCIATIONS.
A neighborhood association shall be designated a recognized neighborhood association by the Mayor when and so long as all the following criteria are found to be met:

(A) The association shall file with the City Office of Neighborhood Coordination a current copy of their bylaws. The bylaws shall include the following provisions:

(1) The geographic boundaries of the neighborhood association shall be reasonable; boundaries are recommended to include an area of the city not more than one square mile and not less than 15 acres or 4 blocks. The boundaries of any neighborhood association in existence on the effective date of §§ 14-8-2-1 et seq. shall be deemed reasonable.

(2) The association shall make full membership open to all persons residing within its boundaries and to all persons and legal entities owning property or having a place of business within its boundaries.

(3) The association shall hold at least one meeting per year for which it makes a reasonable attempt to give written notice to every household and place of business within the association's boundaries; mail, delivered handbills, or a number of prominent signs are examples of adequate notice. No election shall be held at a meeting of an association unless the meeting is so advertised.

(B) Officers of recognized associations shall annually submit a letter to the Office of Neighborhood Coordination attesting to the number of dues-paying members their records indicate for the previous year. If an association has no dues-paying members, or if dues-paying membership does not adequately reflect an association's size, its officers shall annually submit other evidence of the size of its active membership.

(C) No new neighborhood association shall be recognized which has within its boundaries a geographic area already defined within the boundaries of an existing, previously recognized neighborhood association unless the new association demonstrates to the satisfaction of the Mayor that it has more membership in the overlapping area than the first association.

(D) The appropriate district City Councillor and the City Office of Neighborhood Coordination shall be furnished with names, addresses and available phone numbers of current neighborhood association officers and/or board members.

(E) Evidence of an annual general membership meeting advertised as specified in division (A)(3) above shall be sent to the City Office of Neighborhood Coordination within 60 days of the meeting.

(F) Failure to comply with any of the preceding criteria shall result in notification of noncompliance being sent to the recognized neighborhood association officers and/or board members from the City Office of Neighborhood Coordination. Upon receipt of this notice, a recognized neighborhood association must offer evidence of compliance within 60 days; if it does not comply, the association shall be removed from the list of recognized neighborhood associations.

('74 Code, § 7-11-4) (Ord. 14-1987)

§ 14-8-2-5 RESPONSIBILITIES OF RECOGNIZED NEIGHBORHOOD ASSOCIATIONS.

Recognized neighborhood associations shall:

(A) By interaction with their members, residents, and the city, strive to uphold good planning, protect the environment, and promote the community welfare. Communication should be fostered between the recognized neighborhood association and city government on plans, proposals, and activities affecting their area.

(B) Attempt to inform members and other eligible participants in their neighborhood of issues for discussion.

(C) Establish an orderly and democratic means for making representative decisions.

(D) Establish and follow a clear method for reporting to the city actions which accurately reflect the neighborhood's position. When a neighborhood association presents its official position on an issue to the city, it shall be prepared to identify whether the decision was reached by the board, a poll of the general membership, or by a vote at a general membership meeting, and the vote for and against the position.

(E) Comply with its bylaw provisions as specified in § 14-8-2-4 above.

(F) Notify the City Office of Neighborhood Coordination and the district City Councillor(s) of general membership meetings at least two weeks in advance, when possible.

(G) Notify the City Office of Neighborhood Coordination of two persons' addresses where it wishes notice to be sent pursuant to §§ 14-8-2-1 et seq.; such designation shall be changed by the neighborhood association when appropriate.

('74 Code, § 7-11-5) (Ord. 14-1987)

§ 14-8-2-6 RESPONSIBILITIES OF THE CITY.

(A) The Mayor shall make reasonable attempts to give mailed notice to recognized neighborhood associations of rank one, two, and three plan applications, which plans would cover areas within or contiguous to the recognized neighborhood association's boundaries; notification shall be when the application is filed. Recognized neighborhood associations shall be notified of new plans and plan amendments upon initiation of such a project by city departments and within five days of application filing by others. The Mayor shall make reasonable attempts to mail such associations notice concerning all subsequent public hearings of city boards, commissions, and task forces concerning such plan proposals, except hearings which have been deferred to a specific time announced at the prior hearing.

(B) The Mayor shall give directly affected recognized neighborhood associations prior mailed notification of pending major city development and redevelopment projects and changes in services by the city which will have a direct, significant impact on that neighborhood; permanent and temporary street construction and major repair, total closing of streets, changes in size or type of city parks, building of new city facilities, relocation or reconstruction of privately owned utilities which require a permit, or rerouting of bus service are examples. With regard to permanent and temporary street construction and major repair, the Mayor shall give mailed prior notification to the recognized neighborhood associations within one mile of the street construction and/or major repair. When new traffic calming devices are being planned or scheduled for installation, the Mayor shall by mail notify the affected residents directly. Only those persons residing on the street where the devices are to be placed shall be included in any survey or petition process. Affected residents are defined as those who meet either or both of the following criteria:

(1) Residents who cannot avoid traffic calming devices while traveling to or from their homes within the boundaries of the recognized neighborhood association where the devices will be installed.

(2) Residents whose homes are located within 500 feet of the proposed traffic calming devices.

(C) The Mayor shall require written affirmation of prior notice to recognized neighborhood associations at the time of filing applications, as specified in § 14-8-2-7. Not less than 15 days prior to the first public hearing on applications specified in § 14-8-2-7, the Mayor shall mail notices of the hearing to such recognized neighborhood

associations.

(D) For the purpose of divisions (A), (B), and (C) of this section, first class letters mailed to two contact addresses submitted by a neighborhood association shall constitute reasonable attempt to notify.

(E) The city shall mail initial response within seven days of receipt of any correspondence received from any recognized neighborhood association that requests an answer, definition, or status of any city project within their boundaries.

(F) The City Office of Neighborhood Coordination shall:
(1) Notify all known neighborhood associations and prospective associations of the requirements for recognition, and advise such groups on how to meet the requirements;

(2) Review its files on neighborhood associations to verify if each association has met the requirements for recognition with current information;

(3) At least annually notify each known neighborhood association of its current recognition status; city agencies shall also be advised of associations' status;

(4) Encourage individuals to cooperate with their existing neighborhood association;
(5) Work with City officials and recognized neighborhood associations to develop appropriate processes for neighborhood review and comment on city plans and policies;

(6) Supply to all recognized neighborhood associations a current list of all city government agencies, their department heads, and corresponding phone numbers;

(7) Advise recognized neighborhood associations of self-help projects which could enhance the quality of life within their neighborhoods;

(8) Along with the district Councillor, serve when appropriate as a liaison between a recognized neighborhood association and city agencies;

(9) Provide for the sharing of information with recognized neighborhood associations by furnishing, upon request, available pertinent information;

(10) Provide to recognized neighborhood associations a city newsletter to inform them about happenings in city government and to increase communications between such neighborhood associations;

(11) Provide to neighborhood associations workshops on appropriate topics concerning city procedures and actions as well as the effective operation of neighborhood associations; such workshops shall be free for two representatives of each recognized neighborhood association, while a fee may be charged to others; fees may be charged for materials;

(12) Upon request, assist the district Councillor and/or neighborhood associations in the formation of alliances of neighborhood associations; and

(13) Supply to the public and to city officials the names and addresses of the two designated recipients of notices, as most recently specified by each recognized neighborhood association.

(G) Neighborhood groups which are not recognized neighborhood associations will upon request be placed on the mailing list of the City Office of Neighborhood Coordination to receive its newsletter and notices of neighborhood association workshops.

(H) With the advice and consent of the Council, the Mayor may promulgate rules and guidelines necessary to implement §§ 14-8-2-1 et seq.

(I) The Mayor shall make reasonable attempts to give directly affected recognized neighborhood associations prior mailed notification of pending major city development and redevelopment projects and changes in services by the city which will have a direct, significant impact on neighborhoods within one mile of, for example, the permanent and temporary street construction and major repair, total closing of streets, changes in size or type in city parks, building of new city facilities, relocation or reconstruction of privately owned utilities which require a permit, or rerouting of bus service.

('74 Code, § 7-11-6) (Ord. 14-1987; Am. Ord. 23-2003; Am. Ord. 28-2005)

§ 14-8-2-7 RESPONSIBILITIES OF APPLICANTS AND DEVELOPERS.
Applicants for approval of amendments of the zone map, zoning site development plans (except houses and

accessory buildings), major subdivisions, vacations of public right-of-way, mapping historic districts, landmarking sites, and issuance or transfer of liquor licenses shall, prior to filing the application, make a reasonable attempt to give written notification of their proposal to any recognized neighborhood association which covers, abuts, or is across public right of way from the site of their plans. Certified letters, return receipt requested, mailed to the two designated neighborhood association representatives on file at the City Office of Neighborhood Coordination constitutes a reasonable attempt to notify an association. Failure by an applicant to show proof of either notification in person or a reasonable attempt to give written notification of its proposal to such designated association representatives shall be grounds for a neighborhood association to request deferral of a hearing. The application for such hearing shall include a signed statement that such notification has been sent.

('74 Code, § 7-11-7) (Ord. 14-1987)

Attachment 3

Chapter 1: Statement of Policy and Intent.

The Legislature finds and declares that it is the policy of the State of New Mexico to do the following:

(A) Develop and maintain a high quality environment now and in the future, and take all action necessary to protect, rehabilitate, and enhance the environmental quality of the State;

(B) Take all action necessary to provide the people of this State with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise, light pollution, and threats to human health;

(C) Prevent the elimination of fish or wildlife species due to human activities, ensure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities of this state;

(D) Ensure that the long-term protection of the environment, consistent with the provision of a suitable living environment for every State citizen, shall be the guiding criterion in public decisions;

(E) Create and maintain conditions under which humans and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations;

(F) Require governmental agencies at all levels to develop standards and procedures necessary to protect environmental quality;

(G) Require governmental agencies at all levels to consider qualitative and technical factors, as well as economic factors; to consider long-term as well as short-term benefits and costs; and to consider alternatives to proposed actions affecting the environment;

(H) Regulate activities of public agencies which are found to affect the quality of the environment, so that major consideration is given to preventing environmental damage in this State; and

(I) Deny projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. The procedures required by this Act are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects. The Legislature further finds and declares that in the event specific economic, social or other conditions make infeasible such

project alternatives or such mitigation measures, individual projects may be improved in spite of one or more significant effects thereof.

Chapter 2: Definitions.

(A) "Environment" means the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, and objects of historic or aesthetic significance.

(B) "Environment Assessment" or "EA" means an informational document which every public agency shall prepare for its proposed projects. The purpose of an Environmental Assessment is to either issue a "Finding of No Significant Impact" or to determine that further assessment of the project is necessary through preparation of an Environmental Impact Statement.

(C) "Environmental Impact Statement" or "EIS" means an informational, detailed document setting forth the matters specified in this Act, which, when its preparation is required by this Act, shall be considered by every public agency prior to its approval or disapproval of a project. The purpose of an Environmental Impact Statement is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.

(D) "Finding of No Significant Impact" means a written statement, which may be included in an Environmental Assessment, briefly describing the reasons that a proposed project will not have a significant effect on the environment and therefore does not require the preparation of an Environmental Impact Statement.

(E) "Lead agency" means the public agency which has the principal responsibility for carrying out or approving a project.

(F) "Person" means any human, organization, agency, corporation, or other entity.

(G) "Project" means any activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

a. An activity directly undertaken by any public agency;
b. An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies; or
c. An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

(H) "Public agency" means any state or local agency, board, or commission; any county, city, city and county, or regional agency; or an agency of any other political subdivision.

(I) "Significant effect on the environment" means a substantial, or potentially substantial, change in the environment.

(J) "Substantial evidence" means evidence including facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. Argument, speculation, unsubstantiated opinion or narrative, or evidence which is clearly inaccurate or erroneous is not substantial evidence.

Chapter 3: Assessment of Environmental Impacts.

Section 3.1: Environmental Assessments on proposed projects; significant effects; Findings of No Significant Impact.

(A) All lead agencies shall require the applicant to prepare, or cause to be prepared by contract, and certify the completion of, an Environmental Assessment on any proposed project. On the basis of substantial evidence in light of the whole record, the Environmental Assessment either shall conclude that the project may have significant effect on the environment or shall enter a finding of No Significant Impact.

(B) If there is substantial evidence, in light of the whole record before the lead agency, that a project may have a significant effect on the environment, an Environmental Impact Statement shall be prepared by the applicant.

Section 3.2: Environmental Impact Statements on proposed projects.

(A) All lead agencies shall require the applicant to prepare, or cause to be prepared by contract, and certify the completion of, an Environmental Impact Statement on any project which they propose to carry out or approve that may have a significant effect on the environment.

(B) The Environmental Impact Statement shall include a detailed statement setting forth all of the following:

a. All significant effects on the environment of the proposed project;
b. In a separate section:
    i. Any significant effect on the environment that cannot be avoided if the project is implemented.
    ii. Any significant effect on the environment that would be irreversible if the project is implemented.
    iii. The cumulative environmental impact of this project when connected with the environmental impacts of past, current and proposed projects.
c. Mitigation measures proposed to minimize significant effects on the environment, and a description of how those measures would be implemented;
d. Alternatives to the proposed project, including a no-action alternative;

i. The discussion of each alternative to the proposed project shall include a description of the significant effects to the environment that would result from each alternative.
ii. The agency's preferred alternative and proposed course of action shall be identified.

e. The impacts on cultural and historic resources of the State.

(C) The Environmental Impact Statement shall also contain a brief statement indicating the reasons for determining which, if any, various effects on the environment of a project are not significant and consequently have not been discussed in detail in the Statement.

Section 3.3: Best available alternative; mitigation.

(A) Each lead agency shall choose the best available alternative to action which, to the maximum extent practicable, minimizes or avoids adverse environmental effects.

Section 3.4: New Mexico Environment Department; preparation and development of guidelines.

The New Mexico Environment Department shall prepare and develop proposed guidelines for the implementation of this Act by public agencies. The guidelines shall include objectives and criteria for the orderly evaluation of projects and the preparation of documents in a manner consistent with this Act.

(A) The guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a significant effect on the environment. The criteria shall require a finding that a project may have a significant effect on the environment if any of the following conditions exist:

a. A proposed project has the potential to degrade the quality of the environment, to curtail the range of the environment, or to interfere with proper ecosystem functioning in the environment;
b. The possible effects of a project are individually limited but cumulatively considerable. As used in this subsection, "cumulatively considerable" means that the incremental environmental impacts of an individual project are considerable when viewed in connection with the environmental impacts caused by past projects, the environmental impacts caused by other current projects, and the environmental impacts caused by probable future projects;
c. The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

(B) The guidelines shall also include criteria for public agencies to use in determining when a proposed project is of sufficient statewide, regional, or area-wide environmental significance that it should be submitted to appropriate state agencies for review and comment prior to completion of an Environmental Assessment of Environmental Impact Statement.

(C) The New Mexico Environment Department shall develop and prepare the proposed guidelines as soon as practicable.

Section 3.5: Establishment of time limits for Environmental Assessments and Environmental Impact Statements.

(A) For its projects, each public agency shall establish, by resolution or order, time limits that do not exceed the following:

a. Six months for completing Environmental Assessments and, where appropriate, adopting Findings of No Significant Impact.
b. One year for completing and certifying Environmental Impact Statements.
    i. The time limits specified in this section shall apply only to those circumstances in which the public agency is the lead agency for a project. The resolutions or orders may establish different time limits for different types or classes of projects, but all limits shall be measured from the date on which an application requesting approval of the project is received and accepted as complete by the public agency.
    ii. The resolutions or orders required by this section may provide for a reasonable extension of the time period in the event that compelling circumstances justify additional time and the project applicant consents thereto.

(B) If an Environmental Assessment or Environmental Impact Statement is prepared under a contract to a public agency, the contract shall be executed within 45 days from the date on which the public agency sends a notice of preparation. The public agency may take longer to execute the contract if the project applicant and the public agency mutually agree to an extension of the time limit provided by this subsection.

Section 3.6: Notice; opportunity to comment; availability to legislature and general public.

(A) Whenever a public agency, board, or commission approves or determines to carry out a project, it shall file notice of that approval or that determination with the New Mexico **(insert State's Office of Planning and Research)**.

a. The notice shall indicate the determination of the agency, board, or commission on whether the project will, or will not, have a significant effect on the environment and shall indicate whether an Environmental Impact Statement has been prepared pursuant to this Act.
b. All notices filed pursuant to this section shall be available for public inspection.

(B) Lead agencies shall solicit and consider comments from the public and public agencies on environmental documents, including, but not limited to, Environmental Assessments and draft Environmental Impact Statements, in order to help the lead agencies identify

potential significant effects of a project, alternatives, and mitigation measures which would substantially reduce the effects.

(C) The lead agency shall make available each Environmental Assessment and Environmental Impact Statement to the following:

a. The State Legislature. It shall include the Environmental Assessment and Environmental Impact Statement as a part of the regular project statement used in the existing review and budgetary process.
b. The general public. Any member of the general public may secure a copy thereof by requesting a copy from the lead agency.
c. The appropriate local planning agency or agencies of any city, county, or city and county which will be affected by the project.

Chapter 4: Proceedings.

Section 4.1: Enforcement; commencement of actions or proceedings.

(A) Any person may enforce the provisions of this Act.

(B) Any action or proceeding to challenge, review, set aside, void, or annul the following acts or decisions of a public agency on the grounds of noncompliance with this Act shall be commenced as follows:

a. An action or proceeding alleging that a public agency is carrying out or has approved a project which may have a significant effect on the environment without having determined whether the project may have a significant effect on the environment shall be commenced within 180 days from the date of the public agency's decision to carry out or approve the project, or, if a project is undertaken without a formal decision by the public agency, within 180 days from the date of commencement of the project.
b. Any action or proceeding alleging that a public agency has improperly determined whether a project may have a significant effect on the environment shall be commenced within 60 days from the date of the filing of the notice required by this Act.
c. Any action or proceeding alleging that an Environmental Impact Statement does not comply with this Act shall be commenced within 60 days from the date of the filing of the notice required by this Act.

Section 4.2: Settlement meetings; settlement conference.

(A) Not later than 20 days from the date of service upon a public agency of a petition or complaint, the public agency shall file with the court a notice setting forth the time and place at which all parties shall meet and attempt to settle the litigation. The meeting shall be scheduled and held not later than 45 days from the date of service of the petition or complaint upon the public agency. The notice of the settlement meeting shall be served by mail upon the counsel for each party. If the public agency does not know the identity

of counsel for any party, the notice shall be served by mail upon the party for whom counsel is not known.

(B) At the time and place specified in the notice filed with the court, the parties shall meet and confer regarding anticipated issues to be raised in the litigation and shall attempt in good faith to settle the litigation and the dispute which forms the basis of the litigation. The settlement meeting discussions shall be comprehensive in nature and shall focus on the legal issues raised by the parties concerning the project that is the subject of the litigation.

(C) The settlement meeting may be continued from time to time without postponing or otherwise delaying other applicable time limits in the litigation. The settlement meeting is intended to be conducted concurrently with any judicial proceedings.

(D) If the litigation is not settled, the court, in its discretion, may, or at the request of any party, shall, schedule a further settlement conference before a judge of the superior court. If the petition or complaint is later heard on its merits, the judge hearing the matter shall not be the same judge conducting the settlement conference, except in counties that have only one judge of the superior court.

Section 4.3: Noncompliance with Act; court orders.

If a court finds, as a result of a trial, hearing, or remand from an appellate court, that any determination, finding, or decision of a public agency has been made without compliance with this Act, the court shall enter an order that includes one or more of the following:

(A) A mandate that the determination, finding, or decision be voided by the public agency, in whole or in part.

(B) If the court finds that a specific project activity or activities will prejudice the consideration or implementation of particular mitigation measures or alternatives to the project, a mandate that the public agency and any real parties in interest suspend any or all specific project activity or activities, pursuant to the determination, finding, or decision, that could result in an adverse change or alteration to the physical environment, until the public agency has taken any actions that may be necessary to bring the determination, finding, or decision, into compliance with this Act.

(C) A mandate that the public agency take specific action as may be necessary to bring the determination, finding, or decision into compliance with this Act.

(D) A mandate that the public agency pay attorneys' fees to plaintiff.

Chapter 5: Effective Date.

Unless otherwise specified, this Act shall become effective six months from enactment.

Chapter 6: Funding.

All expenses born from implementing this Act shall be that undertaken by each agency.

Chapter 7: Severability.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application, and to this end the provision of this Act are severable.