



NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

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August 14, 2009

Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (MC1101A)
Washington, D.C. 20460

Dear Administrator Jackson:

The National Environmental Justice Advisory Council (NEJAC) understands that the U.S. Environmental Protection Agency's (EPA) policy about Small Drinking Water Systems currently is under review, as reported in July 2009 to the Council by EPA's Office of Water. The NEJAC believes that EPA should avoid the use of variances for small drinking water systems. If, as a last resort, EPA were to consider such variances, it should do so only after impacted communities are fully engaged and informed about the potential impacts of the variance. Additionally, EPA should gain the full support of such action from these communities.

The NEJAC cannot support a two-tiered policy that the use of variances clearly would trigger. Such a policy would increase adverse disproportionate impacts on most, if not all, communities that rely on existing or essential small drinking water systems, particularly those systems in Indian country, rural areas, and in our poorest and smallest communities. Reasons for our rejection of the use of variances include:

- This position is consistent with EPA's environmental justice principles, as well as those of the NEJAC.
- This position is consistent with formal recommendations to EPA from the National Drinking Water Advisory Council (NDWAC), as outlined in its:
 - a. 2003 *Recommendations of the National Drinking Water Advisory Council to U.S. EPA on Its National Small Systems Affordability Criteria*, and
 - b. June 12, 2009 letter to you reaffirming its 2003 recommendations.

The NEJAC also recommended that, during rulemaking, the Office of Water consider involving communities in further dialogue and evaluating the potential effects of various crisis scenarios on small drinking water systems, especially in the western part of the United States. Should EPA intend to change its current policy, we further advise that before doing so, the NEJAC be engaged to thoroughly assess environmental justice implications that the use of such variances could trigger. This effort will require significant time, resources, and advance planning on the part of the

NEJAC and the Office of Water to ensure such an assessment is complete and valuable to the EPA.

In closing, we also commend EPA's Office of Water for seeking the Council's advice about this matter. It is a positive example of appropriate awareness, sensitivity, consideration, and action regarding environmental justice concerns across the EPA's programs and regions. This action is consistent with Executive Order 12898 and EPA's commitment to assess environmental justice implications *before* implementing new or revised policy.

Sincerely,



Elizabeth Yeampierre
Acting Co-Chair



John Ridgway
Acting Co-Chair

cc: Richard Moore, NEJAC Chair
NEJAC Members
Charles Lee, Director, Office of Environmental Justice (OEJ)
Victoria Robinson, NEJAC DFO