

April 19, 2006

Governor Jon Corzine
Office of the Governor
PO Box 001
Trenton, NJ 08625

Re: Call for Ethics Reforms to Address Recent DEP Incidents

Dear Governor Corzine:

Public Employees for Environmental Responsibility (PEER) supports your pledge to deliver ethical reforms of state government. It is with that commitment in mind that we are deeply troubled by a series of recent reports that may compromise the ability of the Department of Environmental Protection to function in the public interest. The activities described in these reports have undermined public confidence in the objectivity and mission of the Department of Environmental Protection, thereby raising legitimate ethical, policy, and management concerns that warrant your intervention.

We refer specifically to news reports that Susan Boyle, a former DEP Assistant Commissioner for Site Remediation, has been loaned to the National Brownfields Association, which is controlled by private development interests, including those actively pursuing DEP approvals for New Jersey projects, such as Cherokee. This story resulted in an editorial urging “DEP Commissioner Lisa Jackson should cancel the assignment” (“Cancel the DEP loan” *Asbury Park Press*; March 29, 2006.)

We also refer to news reports that Nancy Wittenberg, longtime Director of Environmental Affairs and lobbyist for the NJ Builders Association and a harsh critic of the Department of Environmental Protection regulations, has been appointed Assistant Commissioner for Environmental Regulation. In that position, Ms. Wittenberg will manage regulatory programs she criticized, including programs directly related to litigation against the Department by her former employer. This appointment prompted an editorial concluding, “DEP Commissioner Lisa Jackson should find someone else to do the job” (“On the wrong side” *Asbury Park Press*; March 31, 2006).

Perhaps the straw that broke the camel’s back was last Friday’s news reports that former DEP Commissioner Bradley Campbell has joined Wolff & Samson (the wife of former Attorney General and firm partner David Samson served under Campbell as DEP Deputy Commissioner). The firm was described as “the politically connected law firm with an expansive environmental and development practice.” (“Ex-State Official’s new job raises question of ethics” *Star Ledger*; April 13, 2006.) We can only imagine the editorials this appointment will generate, but we suspect that they will not be glowing endorsements of a strong ethical framework.

These most recent ethical controversies follow several disclosures last year, including

- *Wall Street Journal* and *Star Ledger* investigative reports revealed that scientific fraud and improper industry influence weakened DEP cleanup standards for chromium. These interventions saved toxic polluters hundreds of millions of dollars in cleanup costs. These investigative reports were consistent with a DEP whistleblowers report to Commissioner Campbell that PEER publicly released and sent to USEPA;
- A series of complete breakdowns in oversight by the site remediation program triggered legislative oversight hearings. Even after these high profile episodes last year, problems persisted, as evidenced by the events at Ford Motor Company and redevelopment at School Construction Corporation sites throughout the state (see: “Cleaning up the Cleanup Process in New Jersey” *Bergen Record*, April 3, 2006);
- Court documents revealed that Commissioner Campbell bowed to political pressures and reversed the Department’s original plan to accept the donation and preservation of Petty’s Island, in favor of development of the island;
- Commissioner Campbell himself acknowledged in press accounts that partisan considerations and political intervention by the Governor’s office determined which waterways were protected by “Category One” designation;
- Commissioner Campbell was forced to rescind a secretly executed voluntary chemical plant security Memoranda of Agreement which was based on the chemical industry’s “Responsible Care” program;
- “Fast track” private consultant certification regulations were proposed by DEP, but these regulations lacked conflict of interest and ethical standards for those consultants;
- Internal DEP documents and an industry power-point presentation revealed that DEP held improper off the record *ex parte* meetings with the chemical industry. Shortly thereafter DEP quietly abandoned November 2002 proposed toxic water quality standards mandated by USEPA since 1996;
- Consultants for regulated sewer authorities received DEP contracts to perform clean water studies that virtually duplicated work for their regulated clients;
- Press reports disclosing financial irregularities in the DEP Parks Office of Lease & Concessions, including failure to collect hundreds of thousands of dollars in rents and easements; sweetheart lease deals for certain vendors; and improper exchange of Atlantic City marina rent reductions for personal benefits; and
- Commissioner Campbell distributed confidential information to politically connected developers.

We urge your attention to this evolving pattern of undue influence exercised by regulated industries over the state's pollution regulator. To counter this developing pattern, PEER urges that you intervene immediately take the following steps:

- 1) Block the appointment of Nancy Wittenberg as Assistant Commissioner;
- 2) Recall Susan Boyle to the Department;
- 3) Refer the Campbell matter to the Executive Commission on Ethical Standards for review. Request that the Commission draft enforceable written recusal agreements and develop recommendations to strengthen post employment restrictions and ethics laws;
- 4) Block ongoing retaliation against the DEP whistleblower who wrote the chromium report;
- 5) Develop standards for conflicts of interests for all DEP contractors;
- 6) Increase transparency and accountability by mandating disclosure and web site posting of all DEP meetings with lobbyists, consultants and developers, including all pre-application meetings and all other issue meetings. This could be a model implementation tool for recent changes in law regarding disclosure of lobbying of administrative agency lobbying;
- 7) Initiate Department-wide top to bottom policy and management reviews.

We appreciate your favorable consideration of these requests and timely response. We are available to discuss this matter further with your staff.

Sincerely,

Bill Wolfe
Director
New Jersey PEER