

May 19, 2008

Inspector General Cooper
Office of the Inspector General
P.O. Box 208
Trenton, NJ 08625-0208

Re: Request for investigation of proposed Clifton High School Annex financing and environmental review, including compliance with the Kiddie Kollege law, P.L. 2007, c.1

Dear Inspector General Cooper:

I am writing on behalf of Public Employees for Environmental Responsibility (PEER). PEER is a national support group for environmental professionals who seek enforcement of environmental laws, scientific integrity, and government accountability.

We request that your office launch an investigation into a series of questionable practices and potential violations of law concerning the siting, land purchase, due diligence review, financing, environmental sampling, and remediation of sites and buildings chosen for schools.

The need for this statewide investigation is demonstrated by the actions of the Clifton school board and New Jersey State Departments of Environmental Protection (DEP) and Health and Senior Services (DHSS), as reported in today's Bergen Record story "*Safety Testing Lax on New School Sites*" (attachment 1).

A prior 2005 IG investigation of the New Jersey Schools Construction Corporation (SCC) found serious and costly deficiencies related to school siting, land acquisition, and environmental review practices. However, that Report failed to examine directly related and applicable policies and procedures implemented pursuant to a Memorandum Of Understanding (MOU) between the SCC and the Department of Environmental Protection (DEP).

Since that 2005 investigation report, the following relevant events have transpired: a) the SCC/DEP MOU was rescinded, but not replaced; b) consistent with the process established under Executive Order #3, the SCC was abolished by the Legislature and re-established as the Schools Development Authority (SDA); and c) the Kiddie Kollege" law was enacted to bridge gaps in DEP site remediation, DHSS, and local land use decisions.

While your 2005 report focused on SCC financial mismanagement, it included adverse findings regarding reckless policies that resulted in acquisition of land "patently unsuitable" for schools. We believe those findings remain relevant to all schools, not just SDA funded.

Specifically, that report made the following key findings:

- 1) *SCC purchased lands that are patently unsuitable for schools or that pose excessive acquisition costs. Sites targeted for school construction have been found to be environmentally contaminated, requiring substantial additional expenditures for cleanup and remediation;*
- 2) *SCC has minimal guidelines for what constitutes an acceptable site for a school and generally accedes to the site submitted by local school authorities. To date, the SCC has committed to or paid approximately \$328.8 million for the acquisition of sites or associated costs;*
- 3) *SCC has no mechanism to assure that the Board is provided with a complete profile of candidate sites or with information on potential alternate sites;*
- 4) *[these flaws] hamper SCC's ability to bring proper due diligence to land acquisition.*

In light of these findings, we commend your attention to the following documents:

- February 9, 2006 letter to Governor Corzine regarding recommendations for implementing Executive Order #3; (attachment 2);
- March 12, 2008 letter to DEP Commissioner Jackson requesting that she not meet privately with Senator Gill and the Clifton School Board (attachment 3); and
- March 27, 2008 comment letter we submitted to the DEP (attachment 4).

In addition to all the issues raised in these attachments, we specifically request that your investigation determine whether there was compliance with applicable laws and regulations, particularly the Department of Education's "ESR" review requirements as specifically noted in point #9 of Attachment 3 which cites an 11/15/07 email by DEP employee Joe Karpa as follows:

"The [Clifton] BOE attorney said that no environmental documentation existed confirming to the residents that NO due diligence work was conducted prior to their having purchased the property. This facility is obviously subject to the Madden legislation and an ESR is required by the DOE regulations."

It also appears that the school district failed to notify DEP of known discharges of hazardous substances, as documented by soil and groundwater sampling results dated 2/22/05. Notification to DEP of these discharges was not provided until 11/28/07. This appears to violate the law.

We note that local construction permits were granted prior issuance of a site-wide "No Further Action" (NFA) letter by DEP or certification by DHSS, as mandated by P.L. 2007, c.1 (Kiddie Kollege law). In fact, DEP has issued a partial "soils only" "Remedial Action Workplan (RAW) approval. It appears that DEP is misinterpreting P.L. 2007, c.1 to allow local construction permits to be issued upon RAW approval, instead of the NFA

as clearly mandated by law. We ask that you take necessary action to remedy this violation of law.

We note apparent political intervention by Senator Gill and Assemblyman Giblin, who apparently met with DEP Commissioner Jackson and Assistant Commissioner Kropp, respectively. We request that you review ethics compliance with respect to this meeting to determine whether it created an appearance of impropriety, in violation of DEP Ethics Code.

I appreciate your timely and favorable consideration of this request. You may reach me at (609) 397-8213 to obtain any additional information or to clarify this request.

Sincerely,

Bill Wolfe,

Director, New Jersey PEER

Attachments (4)