



CLEAN WATER ACTION

November 15, 2007

Maureen Gorsen
Director
Department of Toxic Substances Control
P.O. Box 806 Sacramento, CA 95812-0806

Dear Director Gorsen,

In June, Clean Water Action (CWA) submitted our initial thoughts on the direction of the Green Chemistry Initiative. We wish to thank you for establishing a process, through workshops, symposia, and the on-line Conversation with California, by which we and others interested in the development of green chemistry in our state could voice our views and learn what other constituents are thinking. As we said in June, we see this Initiative as having the potential to not only develop a model for production in California that will protect human health and our environment, but will also ensure competitive advantages and sustainable economic benefits for our industries. Having participated in the various venues that your department has hosted, I would like to add a few points to our original comments.

In June we focused on roles that we believe the Green Chemistry Initiative should play, including fostering necessary research and the development of a green work force, ensuring the incorporation of environmental justice and worker safety concerns in decision making processes, exploring and encouraging state and private investment in real world green chemistry initiatives, educating the public on the health and environmental issues related to using toxic chemicals and their levels of exposure, and creating a regulatory structure that reverses the burden of proof so that manufacturers must demonstrate their products' safety before they come to market.

It seems to us that two key issues stand out as consistently necessary in addressing the four challenges you and your staff have put forth in developing green chemistry in California: 1) the need for more information on chemical toxicity and use in the state and 2) the need to create a policy model that prioritizes health and environmental safety. Given this, we would further advocate that the Green Chemistry Initiative incorporate the following into its mission and implementation plans:

- **Act quickly to eliminate or restrict known “bad actor” chemicals from use in California and require safer alternatives when available.** There are chemicals for which we already have adequate data demonstrating that they cause serious harm. We support banning such substances in order to protect public and worker health, as well as our environment, and to help drive the development of safer alternatives. In addition, we look to the Initiative to create a mechanism by which to phase out other hazardous chemicals over time.

Voluntary initiatives will not be adequate to eliminate the use of such chemicals or ensure a commitment by producers to seek non-toxic substitutes, especially when the alternative may be a non-chemical solution. In 2006, CWA conducted a series of interviews with a broad range of

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constituents, including business leaders.¹ The role of regulation and bans in encouraging innovation was consistently viewed as essential, though incentives also play an important part.

- **Base assessment of chemicals on a full life cycle analysis and hazard traits.** Traditional reliance on time-consuming risk assessment methods that can be manipulated or subject to varied interpretation is no longer viable given emerging science demonstrating a full range of health problems, cumulative impacts from multiple chemical exposures, and risks to even low dose exposures. In addition, “management” of risk through such strategies as containment have failed to fully protect our communities and ecosystems. Finally, risk assessment does not fully encourage the eradication of toxic chemicals that is necessary not only because of safety issues, but to compete in the international marketplace given increasing regulation. We would add that assessment should be based on the most sensitive criteria, such as the need to protect vulnerable human populations, endangered species, or water quality.
- **Create requirements to obtain data from producers to support complete chemical hazard assessment.** This would entail a scientifically defensible full life-cycle analysis and include comprehensive worker and public health data, as well as potential impacts on the environment, particularly water and air quality. Again, data should include impacts on the most sensitive factors, including vulnerable human populations and wildlife. To ensure timely generation of such data and a precautionary approach to chemical use in California, we support fees on products or processes for which there is only limited health and safety information, as well as the eventual phase-out of such chemicals.
- **Create a public advisory panel or committee in addition to the science advisory group.** We fully support the need to base decisions and assessments on sound science, though we advocate a precautionary approach in the face of limited knowledge or uncertainty. That said, what science we do and how it relates to chemical policy decisions must be based on understanding how our communities are impacted, what is needed to protect them, environmental justice concerns, and other societal factors. For this reason, we advocate for a diverse public advisory group to advise the Initiative on public interest issues and creating both economic and environmental sustainability.
- **Incorporate full cost accounting in chemical policy decisions.** This includes “externalities” such as health costs, economic impacts on communities (especially low income communities and communities of color), environmental treatment and remediation costs born by local governments and agencies at tax and ratepayer expense, and impacts on workers.
- **Encourage the growth of green chemistry investment and real world enterprises.** We are pleased to hear that an upcoming workshop will focus particularly on venture capital, as this will

¹ See Safer Jobs And A Sustainable Economy Through Green Chemistry and Safer Alternatives to Toxic Chemicals In California: *A Constituency Analysis*, A Project of Clean Water Fund and the Lowell Center for Sustainable Production, March 2007 <http://www.cleanwateraction.org/pdf/ca/hellerreport.pdf>.

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be crucial on building a California production model based on Green Chemistry. We also support appropriate incentive programs (as well as regulation drivers) for new innovation, state purchasing policies, creating a conduit for sharing research and strategies on green chemistry, and working with our universities to create green chemistry curriculums as means of growing this part of our economy.

- **Extend producer responsibility.** This, of course means placing the burden of end of life disposal, including sustainable practices such as recycling, on manufacturers selling their products in the US. We would add however, that CWA does not accept the premise of chemicals in products by accident. They are added for some reason and it is up to manufacturers of products that contain these chemicals to ensure that they are not put on the market if they are harmful. For instance, a toy manufacturer is responsible for determining that the paint they use does not contain lead. In addition, sustainable end of use practices, such as recycling, should also be the responsibility of the producer selling the product in California.
- **Continue to broaden the tent of stakeholders as the Green Chemistry Initiative moves forward.** While the Conversation with California has afforded us an important opportunity in participating in the future of the Initiative, there are still key stakeholder groups that are not yet at the table. For example, speakers at workshops did not include strong representation from Labor, agricultural communities living with pesticide exposures, health advocates, or local public agencies that must deal with contamination at tax-payer expense (such as waste water and storm water agencies). As this process moves forward, we encourage you to continue to reach out to these constituencies and encourage their engagement.

Once again, we appreciate the effort that your department and your colleagues at Cal EPA have made in regard to the Green Chemistry Initiative and the opportunity to participate to date. We look forward to continuing our discussions with you and other interested parties and invite you to call upon us if we can assist you in anyway to develop a new, sustainable future for California.

Sincerely,

Andria Ventura

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