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Dear Marjorie:

New Jersey Future would like to thank Governor Corzine and the Department of Environmental Protection for their leadership on the issue of global warming. We commend DEP and its sister agencies for working together to produce the *Draft Global Warming Response Act Recommendations Report*. We appreciate the opportunity to provide feedback on the report and submit our comments below.

NJ Future is a non-profit, land-use advocacy group that promotes smarter growth statewide by protecting our open lands and natural resources, revitalizing our neighborhoods, keeping housing affordable and providing more transportation choices. As a result, our comments on the Draft Recommendations Report are focused on the items dealing with land use and transportation.

General Comments

The draft report lays out a far-reaching, systematic approach to address the state's ambitious goals to reduce greenhouse gas emissions. Our comments build on the report's recommendations in ways that will ensure not only more measurable progress on greenhouse gas reductions, but position New Jersey for long-term economic and environmental sustainability. In general, while we recognize that technology will play a large role in reducing carbon emissions, we are concerned that the report relies too heavily on emerging technologies in the short term, at the expense of recommending more fundamental land use and transportation reforms. Specifically with regard to transportation emissions, the largest single component of New Jersey's carbon footprint, the report relies almost exclusively on low emissions vehicles to reach the 2020 goals.

Accordingly, we start by focusing on the need for a better, measurable target in the transportation sector. Then, we recommend specific ways to make the supporting recommendations more actionable, in the areas of: promoting growth, stopping sprawl, transportation spending, and transportation programs. Each of these items could be added to the report's list of "Actions over the Next 18 Months." The 2050 framework convincingly lays out the need for comprehensive land-use strategies, but fails to acknowledge existing state initiatives. Our recommendations include steps to improve the state's land use decision-making structures to begin to move towards the 2050 goal, many of which should be undertaken in time for the transition between the Governor's first and second term. Strong gubernatorial leadership will be needed to ensure this comprehensive effort succeeds, and we conclude with recommendations on how the governor can ensure full participation by all areas of state government.

Establish a meaningful target for travel reduction

The report recognizes that to reduce emissions from the transportation sector, we must not only change the kinds of vehicles we drive, but reduce the amount we drive. It highlights Vehicle Miles Travelled, or VMT, as a measure for emissions from the transportation sector, recommending a 1% annual cap in VMT growth to meet the 2020 goals. However, no justification is provided for the cap level, nor is any sense provided for

how the recommended actions will contribute towards meeting the cap. No cap is suggested to meet the 2050 goals. The report should call for:

- Adopting within one year a target for travel reduction, such as a VMT target, that reflects the 2050 goal. This target should incorporate reasonable expectations about technology improvements, which could be accomplished using a “green VMT” measure as suggested in the report. The definition of a green VMT measure should be enhanced to recognize not only the benefits of low emissions vehicles, but also those of vehicles carrying multiple passengers, e.g. transit and ridesharing.
- Developing and implementing an effective methodology for measuring vehicle travel. The methodology for such a target should be developed with land use in mind, taking into consideration both the origins and destinations of travel, to eliminate distortions. The state should commit to regular reporting on vehicle travel levels.
- Devising an action plan to meet the target, based on metrics for specific land uses and the relation between these uses and VMT. This will allow the state to better understand how its supporting actions will contribute to reducing VMT. (See section on “An Action Agenda for Land Use, which calls for development of those metrics.)
- Adopting a handful of additional measurable targets, that will help ensure progress towards the VMT target, such as for the number of residents and employees near transit stops, the frequency of transit service, and the amount of new sprawl development.

Promote Compact Growth in the Right Places

Research shows that compact land use patterns have a smaller carbon footprint than sprawl development¹. In order to meet the 2050 greenhouse gas reduction targets, compact growth must be channeled in the right places: near existing infrastructure, transit and employment centers. Indeed, the *Draft Global Warming Response Act Recommendations Report* acknowledges this reality when it recommends ensuring “that local governments adopt plans and zoning regulations that guide development in areas and ways consistent with the statewide GHG limits². There are several steps the state can take in the short term to help encourage this type of development:

- DEP should implement the DEP Permit Efficiency Task Force recommendations to prioritize permit review for smart growth projects in appropriate locations. Quicker review reduces project costs and encourages sustainable growth in appropriate locations.
- The Governor should champion the Smart Housing Incentives Act (A3632/S2505) with the support of DEP, DOT and DCA. Municipalities in New Jersey are responsible for most land use planning and regulations, such as zoning. Their concerns about the impacts of growth result in a shortage of land zoned for the kind of compact, mixed-use development needed to reduce per capita carbon emissions. The Smart Housing Incentives Act (A3632/S2505) would increase local support for compact growth by creating a voluntary program of financial incentives for municipalities that change their zoning in specified ways. Gubernatorial leadership could ensure passage of this revenue-neutral bill this spring. DEP, DOT, and DCA should support the legislation’s modest allocation of their funds to create a joint pool for planning grants.
- Amend the Residential Site Improvement Standards to provide the flexibility needed for compact, pedestrian-friendly infill development and redevelopment, without compromising environmental outcomes. The Residential Site Improvement Advisory Board shall prepare and submit proposed amendments (including parking requirements and building standards) within 120 days of adoption of this report. The Commissioner shall review and adopt revisions 120 days later.

¹ Ewing, Bartholomew, Winkleman, Walters and Chen, *Growing Cooler: Evidence on Urban Development and Climate Change*, ULI, 2007.

² *Draft Global Warming Response Act Recommendations Report*, pg. 64

- Recentralize employment in places accessible to transit³. Identify potential transit hubs based on their accessibility and ridership levels. Incentivize development in those hubs through priority state assistance with environmental remediation, infrastructure improvements, etc. Expand and improve the public transit system, in ways that build on the investment in the ARC tunnel. Call on the Economic Development Authority to reorient employer recruitment programs such as the Business Employment Incentive Program (BEIP) to transit hubs. Consider expansion of the Urban Transit Hub Tax Credit Act.
- Expand the Transit Village Program. DOT should commit to not only continuing its successful Transit Village program, but also, in concert with NJ Transit and the Office of Smart Growth, to providing more aggressive outreach and planning support for municipalities that have significant TOD opportunities, but lack either local planning capacity or the strong market forces that typically instigate municipal interest in the program. Ensure its focus includes not only residential development but commercial development.

Stopping Sprawl

Sprawl development not only impairs natural resources through a wasteful use of land, but ensures high-carbon lifestyles, where even the most trivial errand requires a trip in a car. Every year, approximately 15,000 acres are converted to development in New Jersey, mostly at sprawl densities⁴. Failing to aggressively curb sprawl immediately reduces the state's ability to control greenhouse gas emissions from transportation.

- See Action Agenda for Land Use section, which is designed to ensure sustainable land use plans and regulations.
- Add new conditions to Garden State Preservation Trust (GSPT) grants to local governments to discourage sprawl development. As part of a legislative effort to fund the GSPT, the state can change the GSPT grant programs to municipalities to either require or encourage the following : 1) municipal adoption of zoning in septic areas consistent with new Water Quality Management Plans; and 2) municipal adoption of additional regulations (such as further downzoning, mandatory clustering and/or Transfer of Development Rights) to prohibit sprawl development. The state could encourage municipalities to take these actions, by setting aside funds for “bonus” grants to participating municipalities. Most rural towns want state funds from the Garden State Preservation Trust to preserve open space and farmland and will respond accordingly.
- Amend the Municipal Land Use law to more clearly authorize the use of tools such as mandatory clustering and lot-size averaging.
- Amend the Transfer of Development Rights Act to simplify the process and encourage greater municipal participation.
- DEP should develop a new rule to protect habitat for threatened and endangered species in septic areas and pilot it in a single county. Measures to protect habitat will also prevent sprawl development.

Transportation Spending

Transportation spending has a great impact on development patterns. There are a number of near-term spending decisions that must be shaped to ensure the capital investments support the goals of the GWRA.

- Direct federal stimulus funds to stimulate the economy in the short-term, while positioning New Jersey for long-term environmental and economic sustainability. DOT and the MPOs should prioritize stimulus funds for: 1) fix-it first projects that maintain and repair our existing transportation network, 2) “green” transportation projects including mass transit, pedestrian walkways, and bikeways; and 3) already-developed areas with strong potential for

³ Evans, *Getting to Work: Reconnecting Jobs to Transit*, New Jersey Future. 2008.

⁴ Hasse & Lathrop, *Tracking NJ's Dynamic Landscape: Urban Growth and Open Space Loss 1986-1995-2002*, CRSSA and Rowan Univ., 2008

redevelopment. DOT should report on the use of federal stimulus funds in each of these categories.

- Kick start the reconstruction of the Route 29 boulevard in Trenton to demonstrate how strategic investments can catalyze urban revitalization with sustainable development patterns that reduce greenhouse gas emissions. This investment will enable public and private sector development on the acres of nearby parking, transforming this underutilized state office area into a pedestrian-oriented, vibrant, mixed use center, in the heart of the state capitol and one of the state's transit hubs.
- Incorporate a target for the expansion of the transit ridership in the GWRA Report, working closely with NJTransit and the DOT. Have those agencies adopt the target as well. Use it to drive spending decisions.
- Envision a prosperous, sustainable 21st century economy for New Jersey when reauthorizing the Transportation Trust Fund. Today's economic woes need not curtail our long-term vision for transportation, although they may limit our ability to raise funds in the short-term. Increase the gas tax, or adopt a mileage tax, to provide needed funds, and at the same time, discourage driving. Prioritize fix-it first projects and "green" transportation projects including transit, pedestrian walkways and bikeways. Apply the NJFIT approach to capacity expansion projects, whereby land-use planning complements and protects the investment in transportation facilities. Acknowledge the need to increase transit operating funds to keep up with investments in the physical expansion of the transit system.
- Establish a means for evaluating transportation spending on the basis of its impact on greenhouse gas emissions. Such a system should also apply to the MPO's.
 - Require that DOT, the Turnpike Authority and the South Jersey Transportation Authority evaluate any major highway capacity expansion projects specifically with respect to the goals of the GWRA. This review, which could be conducted through the environmental review process, should show how projects are advancing greenhouse gas reductions and evaluate their priority relative to other mobility investments in the corridor or region, including transit.
 - Alternatively, all capacity expansion projects could go through a formal prioritization review process by an independent review body, such as OHIO's Transportation Review Advisory Committee⁵ process, to ensure transparency. The review criteria should include the project's ability to advance greenhouse gas reductions.

Transportation Programs

New Jersey state government must meet its objectives with substantially fewer resources in the near term, given state budgetary constraints. Nonetheless, significant resources can be freed up through the kind of innovative approach to providing mobility that NJDOT pioneered in the early 2000s. In short, DOT can improve mobility not only by expanding roads, but by managing the demand for them. For example, designing new streets in a traditional pattern that supports walking can reduce the number of cars on the road (in addition to reducing the cost of road construction.) This approach can be achieved by a integrating a "walk, ride, drive" approach into all department efforts.

- Fully implement the new Complete Streets policy in 2009. The DOT should prioritize completion of its Roadway Design Manual policies on bicycling, pedestrians and traffic calming and fully incorporate the Complete Streets policy into the Roadway Design Manual. It should require local use of a complete streets strategy as a condition of local aid grants and DOT technical assistance. DOT should also promote the policy through its website and other outreach efforts.
- Implement a system-wide rollback of unbuilt "desirable typical sections" to reduce expectations that large highways will solve congestion, and to change municipal expectations about potential for sprawl development.
- Better implement the State High Access Management Act and ensure it supports the goals of the GWRA.

⁵ <http://www.dot.state.oh.us/TRAC/Pages/Default.aspx>

- Require evaluation of VMT generation for “Developments of Regional Significance”. DOT should propose and adopt a regulatory change to the Access Code that identifies an additional category for Developments of Regional Significance (DRS) based on square footage or traffic generation. The regulations should require every DRS to have an approved “VMT Management Plan” to show how the project will minimize VMT generation, consistent with the GWRA plan, and supportive of the State Highway Access Management Act’s mandate that the access code must preserve the mobility and functionality of the state highway system.
- Increase funding for Access Management Planning. DOT should commit to seeking \$1 million annually in CMAQ funding for development and implementation of Access Management Plans at the state and local level. The lack of adequate funding is the primary reason that Access Management Plans do not get adopted.
- Complete and Adopt the Access Code designation of Main Streets in 2009 to provide needed flexibility for downtown settings. Incorporate credit for transit proximity.
- Increase resources for planning assistance to local governments
 - DOT in collaboration with the NJDEP, the Office of Smart Growth, and the MPOs, should provide additional state and federal funds from the annual capital program for additional professional land use and transportation planning capacity to include:
 - The adoption of improved, synergistic local transportation and land use plans that will reduce VMT, as exemplified by the Mobility and Community Form project.
 - Upgraded county transportation planning for developing provisions in county transportation master plans that promote VMT reduction, better coordination between transportation and land use and other measures. (See Land Use Action section)
 - Ongoing funding for the NJDOT/NJTransit portion of the planning grants offered by the Smart Housing Incentives Act.
 - DOT should integrate its NJFIT approach into its operations and dedicate adequate capital funding for the projects recommended through NJFIT corridor planning.
- Enhance Commuter Options and Green Commuting Program by doubling existing funding. The recommendation in the report is meaningless without increased funding.

An Action Agenda for Land Use

The absence of any substantive discussion of the State Plan or the State Planning Commission (SPC) is a serious flaw of the draft report. In the 2050 framework, the report calls for the kinds of actions the State Planning Act requires the SPC to do: “develop consistent State, Regional and local land use strategies” and “align state rules, regulations, planning and infrastructure investments with the statewide GHG limits”⁶ (although the focus here is narrowed to GHG.) The state planning effort offers not only statutory authority for the actions called for in the 2050 framework, but also familiarity by local governments from over twenty years of experience. While the DEP has regulatory authority with aspects of land use, the type of comprehensive land use reform that is needed to achieve the goals of the Global Warming Response Act is simply too broad for the Department to address unilaterally. The State Planning Commission by contrast, with representatives from each of the major state agencies, as well as a staff of experienced planners at its disposal, represents a more logical venue for these discussions. Creating a parallel structure to the state planning effort at DEP could undermine the credibility of the GWRA report, by further increasing confusion among state and local governments.

We recognize, though, that implementation of the State Plan has been incomplete, and that the State Planning Commission has not lived up to its full potential. One of its biggest failures involves not defining its powers relative to the state agencies, which has been exacerbated by the Office of Smart Growth’s location in another line agency, DCA.

⁶ Draft report, page 63.

To this end, there are several short term changes that could transform the State Planning Commission into the Governor's tool to achieve the land use changes needed to meet the goals of the GWRA.

- Incorporate the land use components of the Global Warming Response Act Report into the new version of the State Development and Redevelopment Plan. The SPC can do this at the Governor's request. By year's end, codify these goals into the State Planning Act by making the SPC responsible for implementing the report's land use components. Ensure DEP maintains control over the global GWRA report, as dictated by the GWRA.
- Make the Commission independent of individual state agencies. Move, by Administrative Order of the Governor, the Commission and its staff (the Office of Smart Growth), from the Department of Community Affairs, to an "in but not of" position within the relatively neutral Treasury Department. Such a move would provide the necessary autonomy for the commission to truly be an independent arbiter between state agencies on the topic of land use. Eventually, amend the State Planning Act to make state agency representatives non-voting members. Maintain the Governor's strong ties to the Commission through his appointment power and ability to veto minutes.
- Empower the Executive Director. Elevate the Executive Director of the Office of Smart Growth to a cabinet level position to enable him/her to work with agencies to align their efforts with a central strategy. Although the Governor can do this immediately, it should be codified into the State Planning Act as well.
- Fill the Commission's vacant seats. The State Planning Commission has been operating for many months with vacant positions. The governor should exercise his power to fill these vacancies as a way to strengthen the commission. Most critical will be adding an environmentalist and a representative from the Governor's office.
- Through amendments to the State Planning Act, clarify the powers of the State Planning Commission to help the Governor align state agency actions (capital spending, rule-making) with the State Plan. Repeal the legislation creating the state Ombudsman. Require agencies to align rules, regulations and capital spending with the State Plan, provided they do not compromise other legislative mandates. Charge the SPC with reviewing agency rules, regulations and capital spending for consistency with the State Plan. Authorize the SPC to recommend the Governor require changes to ensure consistency.

These actions should be undertaken before the administration begins its second term, or a new Governor starts their first term, in January 2010.

Once properly equipped, charge the SPC with spearheading the effort to implement the land use changes needed to reduce GHG emissions.

- Charge the Commission with working with DEP and DOT to identify desired land use patterns (including densities and uses) and strategies that will meet the GHG reduction goals, and are suitable for their context, based on national research. Complete in 2009.
- Given the statewide VMT target, task the Commission with apportioning the target down to the county (or, in the case of the State's three special management areas, regional) level. Those levels of government would then be responsible for developing a land use and transportation master plan intended to achieve their assigned VMT target. Such a planning function would build on the new county-wide waste water planning being instituted by the DEP's WQMP rule. The SPC should review and approve those plans through a plan endorsement-like process tailored for the county level.
- Pilot the regional planning effort above in a region or county that completes its WQMP process and which has strong staff capacity. Use their work as a model for other

counties/regions and to create planning tools for other counties/regions. DEP should fund their work with a portion of their share of the GWSF.

- Require municipalities to conform their land use plans and zoning to the county plans. DOT should commit to not approving any municipal or county aid projects until conformance has been demonstrated. There is precedent for this sort of approach in California's recent Senate Bill 375⁷.

Implementation Steps

As mentioned above, implementing the far reaching reforms required to meet the GHG reduction targets will require a multi-agency effort, and as such will be most successful with gubernatorial leadership. We recommend the following:

- The Governor should issue an Executive Order that clarifies the roles that each agency will play. The EO should cover the VMT target, the transit ridership target, the state planning recommendations, and other items.
- DEP should appoint members to the Independent Review Panel with strong representation from the land-use and transportation fields, in accord with the panel's tasks.

Thank you for the opportunity to comment on the *Global Warming Response Act Recommendation Report*. We look forward to working the Governor, the DEP and other state agencies to help implement the recommendations of the final report. If you have any questions, you can reach me at 609-393-0008, x104, or pkasabach@njfuture.org or Chris Sturm at 609-393-0008, x114 or csturm@njfuture.org.

Sincerely,



Peter Kasabach
Executive Director
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Cc:

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Joseph Doria, Ben Spinelli, NJDCA
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⁷ Corbalis. *Climate Change and Land Use*. New Jersey Future. 2008