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OHIO Power Siting Board  
To: Docketing Division From: Margaret Rietschlin  
Fax: 614-466-0313 Pages:  
Phone: Date: Sept. 15, 2011  
Re: cc:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• Comments:

Re: Black Fork Wind Energy LLC

Case No. 10-2865-EL-BGN

Testimony ATTACHMENT

To Margaret Rietschlin

Exhibits - 1, 2, 3, 4, 5, 6, 7,

8, 9, 11, 12, 13

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## Public Participation at Ohio EPA

**Mission**

*"To protect the environment and public health by ensuring compliance with environmental laws and demonstrating leadership in environmental stewardship."*

**Vision**

*"The Ohio Environmental Protection Agency is a trusted leader and environmental steward using innovation, quality service and public involvement to ensure a safe and healthy environment for all Ohioans."*

Ohio EPA recognizes that its mission and vision cannot be achieved without input from Ohio citizens. The Agency places a high priority on public involvement and encourages citizens to become involved in our decision-making processes.

Public involvement efforts are designed to enable Ohioans to be a part of environmental decisions that affect their life. The Agency offers public hearings, informational meetings, media briefings, advisory board meetings, round table discussions and various publications to educate the public on environmental issues. Each area of the state is served by a public involvement coordinator. To find the coordinator for your area, click here.

**In My Community**

If you are looking for ways to protect the environment at home or work and to find links and information specific to your community please visit our In My Community page. You will find information on drinking water, air quality, fish advisories, recycling and other environmental links.

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To facilitate access to information for sites with high public interest, Ohio EPA often creates and maintains centralized site-specific information Web pages. You can access these sites on our High Interest Site page.

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## Contact the Public Interest Center

Mailing Address: P.O. Box 1049, Columbus, OH 43216-1049  
Street Address: 50 West Town Street, Suite 700 Columbus, OH 43215  
Phone: (614) 644-2160 ~ Fax: (614) 644-2737 ~ E-mail  
Emergency Response Hotline (800) 282-9378

*Exhibit 2*

## Bureau of Labor Statistics

**Local Area Unemployment Statistics  
Original Data Value**

Series Id: LAUPA39210003,LAUPA39210004,LAUPA39210005,LAUPA39210006  
 Not Seasonally Adjusted  
 Area: Crawford County, OH  
 Area Type: Counties and equivalents  
 State/Region/Division: Ohio  
 Years: 2001 to 2011

Year	Period	labor force	employment	unemployment	unemployment rate
2001	Jan	23476	22416	1060	4.5
2001	Feb	23441	22394	1047	4.5
2001	Mar	23522	22551	971	4.1
2001	Apr	23525	22568	957	4.1
2001	May	23719	22682	1037	4.4
2001	Jun	24250	22650	1600	6.6
2001	Jul	24018	22269	1749	7.3
2001	Aug	23897	22481	1416	5.9
2001	Sep	23720	22252	1468	6.2
2001	Oct	23668	22108	1560	6.6
2001	Nov	23406	21738	1668	7.1
2001	Dec	23230	21600	1630	7.0
2001	Annual	23656	22309	1347	5.7
2002	Jan	22920	21088	1832	8.0
2002	Feb	22919	21194	1725	7.5
2002	Mar	23025	21339	1686	7.3
2002	Apr	23087	21530	1557	6.7
2002	May	22996	21590	1406	6.1
2002	Jun	23150	21637	1513	6.5
2002	Jul	23482	21782	1700	7.2
2002	Aug	23231	21473	1758	7.6
2002	Sep	22921	21364	1557	6.8
2002	Oct	22995	21351	1644	7.1
2002	Nov	22782	21051	1731	7.6
2002	Dec	22605	20887	1718	7.6
2002	Annual	23009	21357	1652	7.2
2003	Jan	22619	20701	1918	8.5
2003	Feb	22634	20773	1861	8.2
2003	Mar	22745	20995	1750	7.7
2003	Apr	22853	21133	1720	7.5
2003	May	22993	21288	1705	7.4
2003	Jun	23451	21530	1921	8.2
2003	Jul	23484	21664	1820	7.7
2003	Aug	22963	21279	1684	7.3
2003	Sep	23269	21579	1690	7.3
2003	Oct	22974	21326	1648	7.2
2003	Nov	22924	21249	1675	7.3
2003	Dec	22900	21204	1696	7.4
2003	Annual	22984	21227	1757	7.6
2004	Jan	22942	21002	1940	8.5

## Bureau of Labor Statistics

2004	Feb	22769	20951	1818	8.0
2004	Mar	22856	21064	1792	7.8
2004	Apr	22889	21202	1687	7.4
2004	May	22935	21338	1597	7.0
2004	Jun	23363	21524	1839	7.9
2004	Jul	23329	21486	1843	7.9
2004	Aug	23222	21547	1675	7.2
2004	Sep	22898	21269	1629	7.1
2004	Oct	22826	21184	1642	7.2
2004	Nov	22777	21087	1690	7.4
2004	Dec	22612	21014	1598	7.1
2004	Annual	22951	21222	1729	7.5
2005	Jan	22308	20573	1735	7.8
2005	Feb	22481	20739	1742	7.7
2005	Mar	22407	20877	1530	6.8
2005	Apr	22682	21154	1528	6.7
2005	May	22784	21378	1406	6.2
2005	Jun	23082	21552	1530	6.6
2005	Jul	23197	21754	1443	6.2
2005	Aug	23052	21714	1338	5.8
2005	Sep	22808	21396	1412	6.2
2005	Oct	22748	21369	1379	6.1
2005	Nov	22738	21326	1412	6.2
2005	Dec	22577	21171	1406	6.2
2005	Annual	22738	21250	1488	6.5
2006	Jan	22217	20774	1443	6.5
2006	Feb	22204	20695	1509	6.8
2006	Mar	22357	20925	1432	6.4
2006	Apr	22548	21110	1438	6.4
2006	May	22505	21257	1248	5.5
2006	Jun	22898	21486	1412	6.2
2006	Jul	23157	21629	1528	6.6
2006	Aug	22810	21435	1375	6.0
2006	Sep	22494	21157	1337	5.9
2006	Oct	22386	20998	1388	6.2
2006	Nov	22321	20823	1498	6.7
2006	Dec	22421	20854	1567	7.0
2006	Annual	22526	21095	1431	6.4
2007	Jan	22168	20513	1655	7.5
2007	Feb	21969	20438	1531	7.0
2007	Mar	22155	20582	1573	7.1
2007	Apr	22130	20625	1505	6.8
2007	May	22181	20766	1415	6.4
2007	Jun	22607	20932	1675	7.4
2007	Jul	22584	21033	1551	6.9
2007	Aug	22381	20913	1468	6.6
2007	Sep	22169	20738	1431	6.5
2007	Oct	21909	20463	1446	6.6
2007	Nov	22021	20530	1491	6.8
2007	Dec	21956	20270	1686	7.7
2007	Annual	22186	20650	1536	6.9
2008	Jan	21740	19884	1856	8.5

## Bureau of Labor Statistics

2008	Feb	21543	19941	1602	7.4
2008	Mar	21688	19997	1691	7.8
2008	Apr	21730	20162	1568	7.2
2008	May	21750	20271	1479	6.8
2008	Jun	22048	20304	1744	7.9
2008	Jul	22366	20321	2045	9.1
2008	Aug	22243	20079	2164	9.7
2008	Sep	21722	19844	1878	8.6
2008	Oct	21720	19765	1955	9.0
2008	Nov	21722	19654	2068	9.5
2008	Dec	21812	19298	2514	11.5
2008	Annual	21840	19960	1880	8.6
2009	Jan	22092	18947	3145	14.2
2009	Feb	22022	18737	3285	14.9
2009	Mar	21927	18690	3237	14.8
2009	Apr	22116	19034	3082	13.9
2009	May	22358	19032	3326	14.9
2009	Jun	22563	18984	3579	15.9
2009	Jul	22215	19037	3178	14.3
2009	Aug	21724	18706	3018	13.9
2009	Sep	21406	18443	2963	13.8
2009	Oct	21348	18365	2983	14.0
2009	Nov	21265	18385	2880	13.5
2009	Dec	21266	18273	2993	14.1
2009	Annual	21858	18719	3139	14.4
2010	Jan	21142	17958	3184	15.1
2010	Feb	21116	18047	3069	14.5
2010	Mar	21111	18151	2960	14.0
2010	Apr	21188	18432	2756	13.0
2010	May	21165	18675	2490	11.8
2010	Jun	21412	18834	2578	12.0
2010	Jul	21438	18877	2561	11.9
2010	Aug	21298	18848	2450	11.5
2010	Sep	21005	18664	2341	11.1
2010	Oct	20922	18564	2358	11.3
2010	Nov	20921	18565	2356	11.3
2010	Dec	20992	18651	2341	11.2
2010	Annual	21142	18522	2620	12.4
2011	Jan	20837	18197	2640	12.7
2011	Feb	20781	18226	2555	12.3
2011	Mar	20528	18167	2361	11.5
2011	Apr	20462	18132	2330	11.4
2011	May	20695	18251	2444	11.8
2011	Jun	20939	18313	2626	12.5
2011	Jul	21024	18387	2637	12.5

Exhibit 3

**STATE OF THE COUNTY REPORT  
CRAWFORD COUNTY COMMISSIONERS  
FEBRUARY 19, 2010**

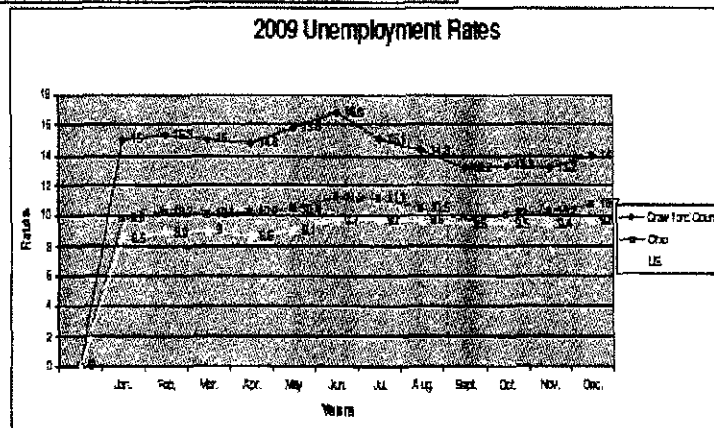
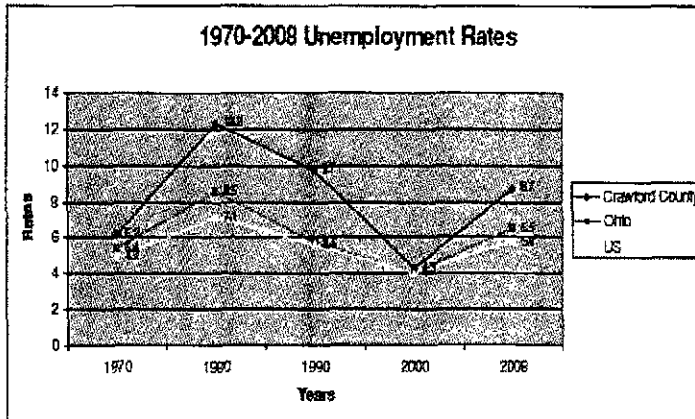
*Exhibit A*

# Unemployment Trends:

Comparing County, State & National Rates



Crawford County's unemployment rate exceeds both Ohio and the U.S. National Averages.

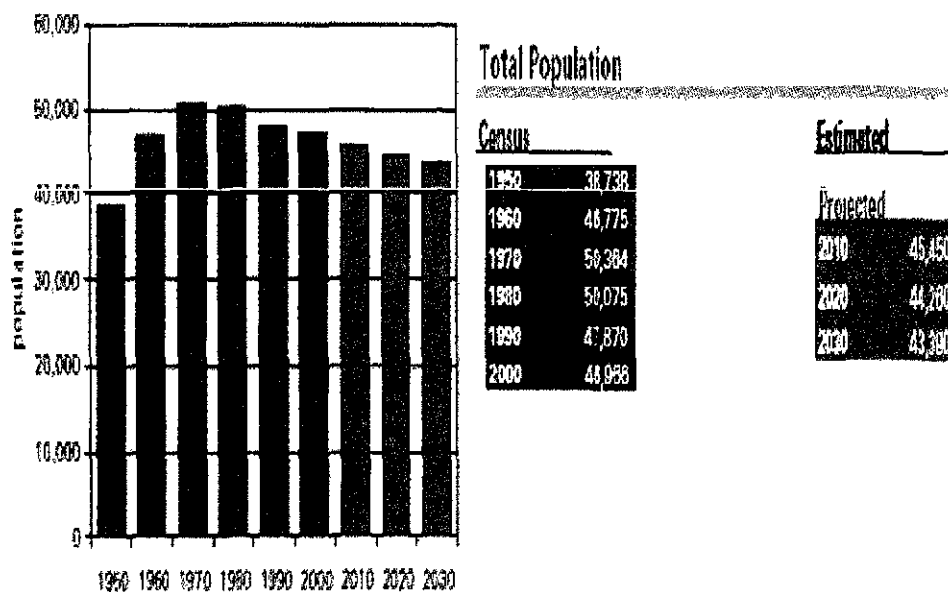


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*Exhibit B*



According to the Ohio Department of Development the county is losing nearly 1% of its population annually. In the 2008 Census Estimates, Crawford County's population dropped to 43,696.



Source: Ohio Department of Development, Ohio County Profiles, Crawford County

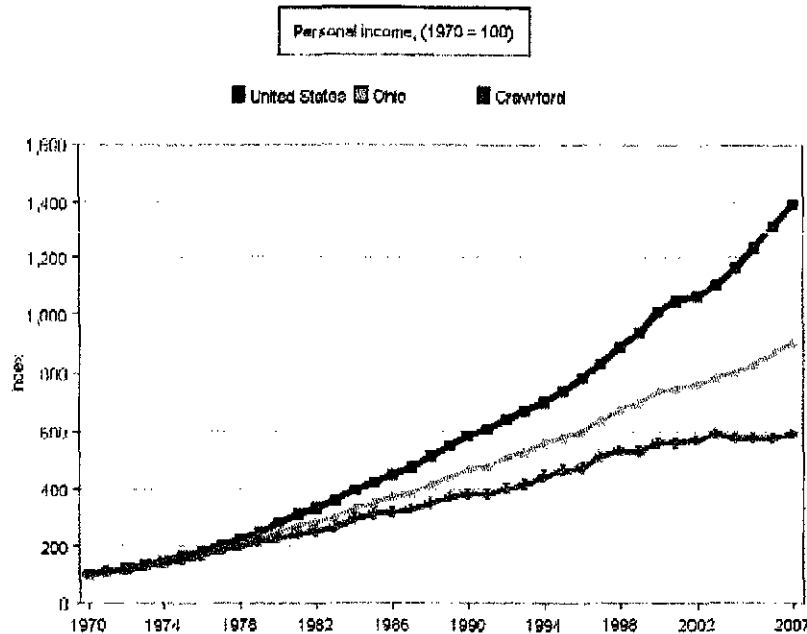


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*Exhibit C*



Crawford County's per capita income continues to slip. The gap in aggregate earnings is steadily increasing, when comparing Crawford County to State and National levels.



Source: U.S. Bureau of Economic Analysis 2009





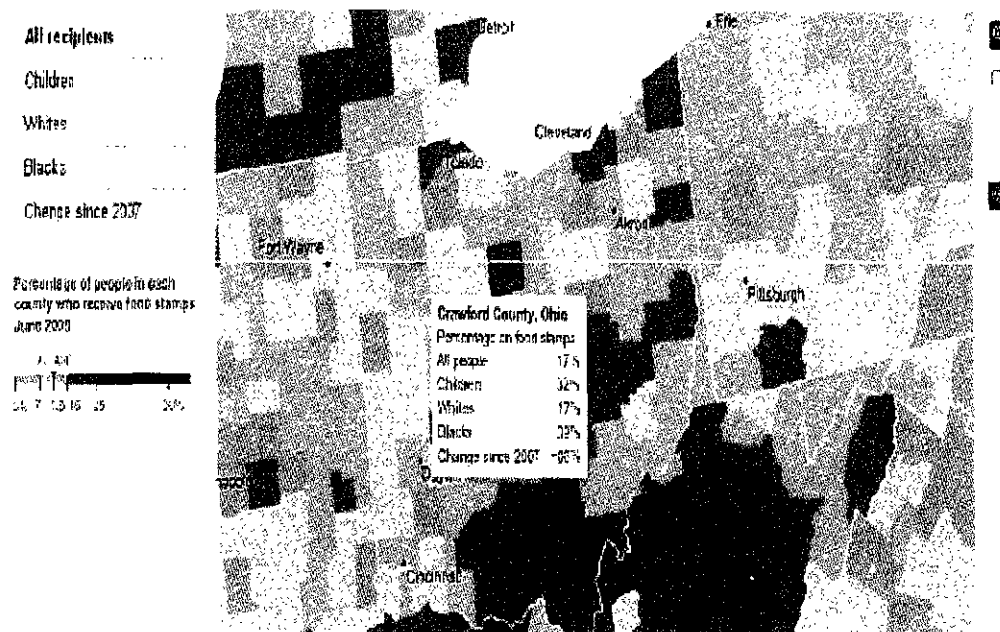
# STATE OF THE COUNTY REPORT CRAWFORD COUNTY COMMISSIONERS FEBRUARY 19, 2010

## Exhibit D



### Food Stamp Usage Across the Country

The number of food stamp recipients has climbed by about 10 million over the past two years, resulting in a program that now feeds 1 in 8 Americans and nearly 1 in 4 children. *— RICHARD ARMITAGE*



Sources: state agencies; U.S. Department of Agriculture; Census Bureau

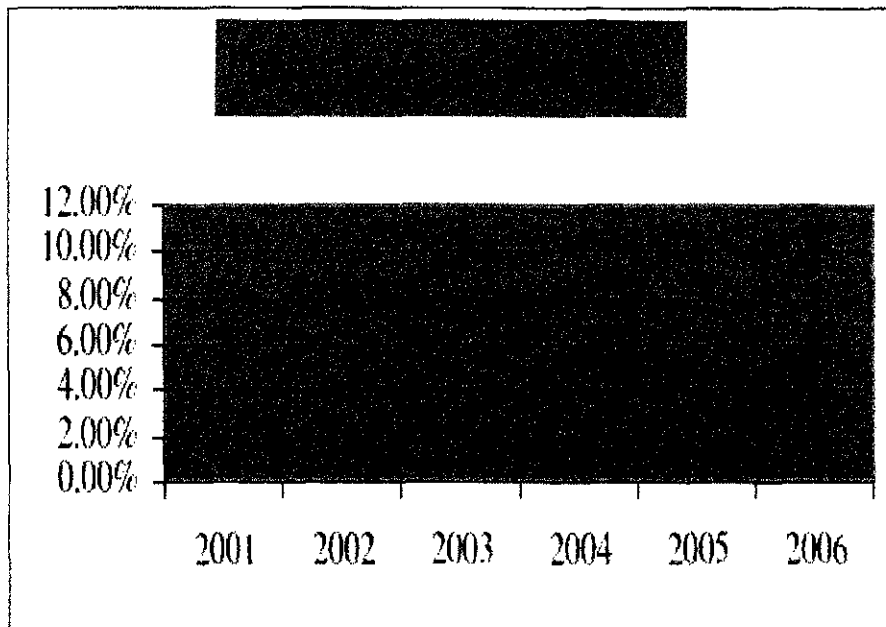


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*Exhibit E*



The number and percentage of Crawford County residents receiving public assistance increases annually.



Source: Ohio Department of Jobs and Family Services

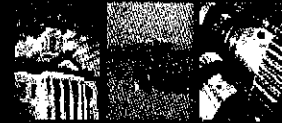


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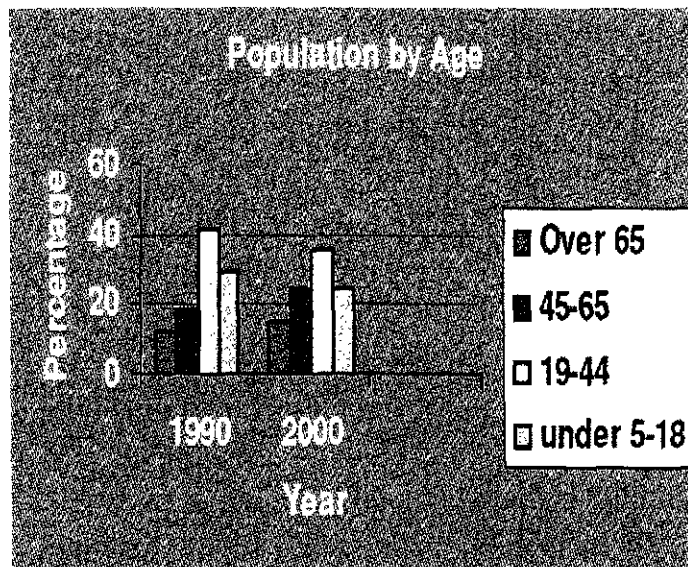
*Exhibit F*

## Population Trends:

Aging in Place



Crawford County's residents are getting older. According to the 2009 Ohio Department of Job and Family Services County Overview, county residents' median age is now 39 years. Our aging population can be attributed in part to the out-migration of young adults who seek educational and career opportunities offered elsewhere.



Source: U.S. Census Bureau



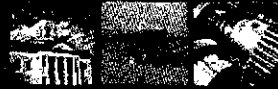
Crawford County Economic Development  
Partnership, Inc.

**STATE OF THE COUNTY REPORT  
CRAWFORD COUNTY COMMISSIONERS  
FEBRUARY 19, 2010**

***Exhibit G***

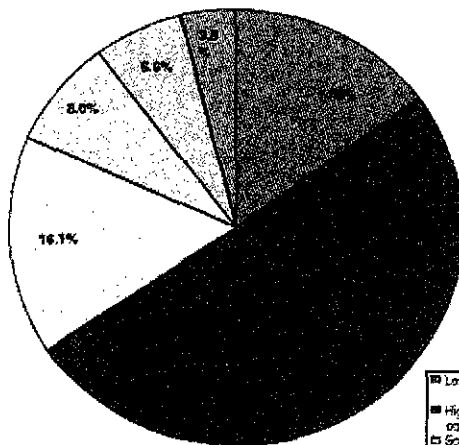
## Population Trends:

### Educational Attainment



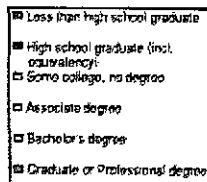
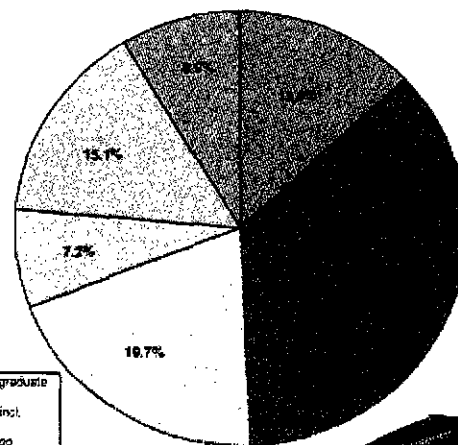
Crawford County's overall educational attainment is low for residents 25 years and over.

**2008 Crawford County**



Source: U.S. Census Bureau 2009

**2008 Ohio**



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CRAWFORD COUNTY COMMISSIONERS  
FEBRUARY 19, 2010**

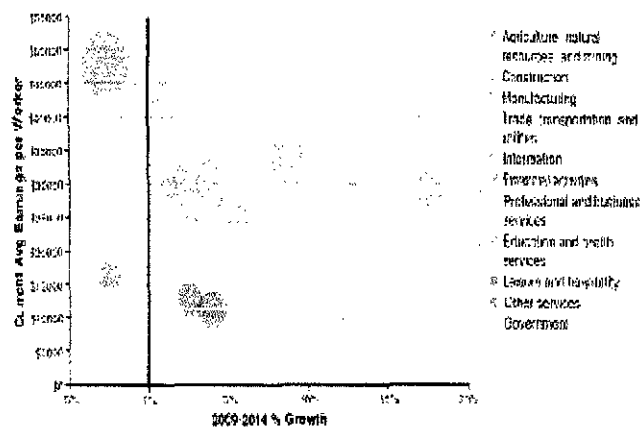
***Exhibit H***

# Employment Trends:

Industry Sector

## Industry Size and Growth

2009 - 2014 Size and Growth



Source: BLS, Bureau of Economic Analysis, BEA, 2009

Description	2009 Jobs	2014 Jobs	Growth	% Growth	Current EPW
Agriculture, natural resources and mining					
Construction	908	919	12	1%	\$28,176
Manufacturing	3,153	3,390	237	8%	\$47,893
Trade, transportation and utilities	3,427	3,543	116	3%	\$29,176
Information	102	122	20	12%	\$32,291
Financial activities	1,802	1,890	88	5%	\$29,475
Professional and business services	1,362	1,512	150	11%	\$31,580
Education and health services	2,579	2,895	316	12%	\$33,226
Leisure and hospitality	1,658	1,773	115	7%	\$11,244
Other services	1,388	1,435	47	3%	\$12,991
Government	2,037	2,010	-27	-1%	\$45,519
	19,803	20,504	701	4%	

Source: BLS, Bureau of Economic Analysis, BEA, 2009



County of Crawford, Missouri  
Hartsville, Mo.

EPW=Earnings Per Worker

**STATE OF THE COUNTY REPORT  
CRAWFORD COUNTY COMMISSIONERS  
FEBRUARY 19, 2010**

*Exhibit I*

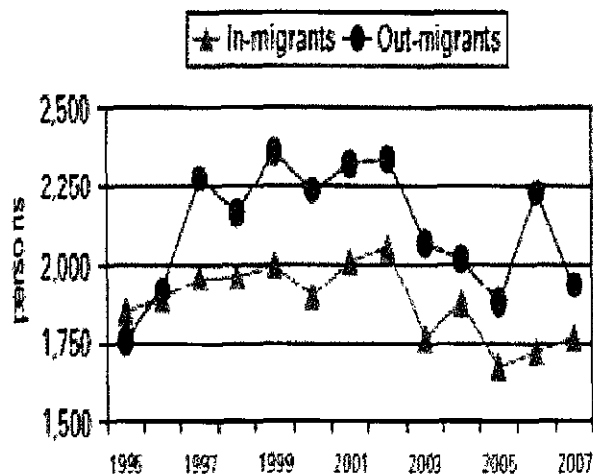
# Population Trends:

## Migration Patterns



Crawford County's negative population growth may be attributed to the out-migration of young adults ages 18 to 24 years. In the 2000 Census this age group was the most underrepresented in the county, making up only 8.2% of the adult populace.

### Migration



Source: Ohio Department of Development, Ohio County Profiles, Crawford County



Exhibit 4

<http://www.dot.state.oh.us/Divisions/ConstructionMgt/OnlineDocs/Sp...>

overpressure below 134 dB at the nearest structure or other designated location. Lower the overpressure limit if it proves too high based on damage or complaints.

B. The airblast and noise control specialist may establish the peak overpressure limits higher than 134 dB. Submit information explaining why higher limits are needed and are safe to the Engineer before blasting begins near structures denoted in the pre-blast survey in 208.14.

C. Furnish a permanent signed and dated record of the peak overpressure measurements to the Engineer immediately after each shot or use the same reporting procedures and time frames denoted for vibration in 208.15.

D. Stop all operations if the overpressure limits are exceeded until the airblast and noise control specialist reports to the Engineer that no damage has occurred or will occur and that corrective action has been taken to lower the airblast.

**208.17 Hydrologist.** If specified in the Contract, use a qualified hydrologist to monitor the before, during, and after blasting or major excavation quantity and quality of the water supplies within 1500 feet (460 m) of the blasting or major excavation areas. The water supplies shall include, but not be limited to, all wells, springs, or other water supplies for human consumption.

Retain an experienced hydrologist. The Contractor shall not use a hydrologist that is an employee of the Contractor, explosives manufacturer, or explosives distributor.

Before or at the preconstruction conference, submit a resume of the credentials of the proposed hydrologist. Include in the resume a list of at least five heavy construction or highway projects on which the hydrologist was responsibly in charge of monitoring water quality and quantities. List a description of the projects, with details of the water monitoring or modeling made on the projects. List the names and telephone numbers of project owners with sufficient knowledge of the projects to verify the submitted information. Obtain approval of the hydrologist before beginning any major excavation, drilling, or blasting work. Allow 30 days for the review of this documentation.

The hydrologist shall perform, at minimum, all of the following:

A. Review the available public records, including Ohio DNR well logs, to obtain background information and to identify the locations and geology of water supplies within 1500 feet (460 m) of the blasting areas or major excavations.

B. Examine private wells, and public and industrial water supplies (as allowed by property owners or occupants), and measure water levels and well depths with a water level meter. Clean the water level meter before and between each use.

C. Collect water quality data (pH, e-coli, specific conductivity, turbidity, sulfur, and iron) from private wells, and public and industrial water supplies to determine the major excavation work or blasting affects on the water supplies by using field instruments.

D. Measure the water quality and water level for a minimum of two times per week for 2 weeks before, during, and 2 weeks after major excavation or blasting within 1500 feet (460 m) of the water supplies.

E. Perform an associated field survey of the locations and elevations of wells and springs.

F. Evaluate the need for piezometers to monitor the ground water conditions. Place and monitor the piezometers as necessary.

G. Provide a monitoring plan report detailing the proposed activities, frequencies, testing, and any recommendations for monitoring the water supplies as detailed in 208.17.A through 208.17.F above. Submit this report at least 10 days before beginning the scheduled blasting or major excavation.

H. Provide a monthly report of the conclusions and results of the monitoring plan.

I. Provide a final report on the final condition or affect of the blasting or major excavation on the water supplies. Submit this report within 30 days after the blasting or major excavation is completed on the project.

J. Meet with the Engineer in order to coordinate this work and provide input, update the project schedule, report progress (including completed work and updated schedule), and make recommendations. Allow for ten meetings.

The Contractor is not responsible for damages to the above denoted water supplies if the blasting or excavation is done according to this specification. The Contractor is responsible for damage caused by negligence, vibration or noise above the allowable limits, flyrock, or back break.

**208.18 Flyrock Control.** Before firing any blast in areas where flying rock may result in personal injury or unacceptable damage to property or the work, cover the rock with blasting mats, soil, or other equally serviceable material to prevent flyrock.

If flyrock leaves the construction site or lands on a traveled road, the Contractor shall cease all blasting operations until the blasting consultant specified in 208.13 reviews the site and determines the cause and solution to the flyrock problem. Before blasting proceeds, submit a written report addressing the following:

A. Why the flyrock left the construction site or landed on a traveled road.

**B. What corrective measures were taken to prevent this from reoccurring?**

**208.19 Public Meetings.** If a blasting consultant, vibration specialist, airblast and noise control specialist, or hydrologist are specified in the Contract, make the consultant, specialists, Contractor's superintendent and blaster available for one day to prepare for and participate in a public meeting organized by the Engineer and conducted by the Contractor to better inform the public about anticipated drilling and blasting operations. The consultant and specialists shall be prepared to answer any questions dealing with the magnitude of seismic motion, vibrations, airblast overpressure, flyrock, and water problems that may affect the public.

**208.20 Record Keeping.**

**A. Daily Explosive Material Consumption.** Keep a daily record of the transactions at each storage magazine. Update inventory records at the close of every business day. Show on the records the class and quantities received and issued and total remaining on hand at the end of each day. Check the remaining explosive inventory each day and report any discrepancies that would indicate a theft or loss of explosive material.

**B. Report of Loss.** If a loss or theft of explosives occur, report all circumstances and details of the loss or theft immediately to the nearest Bureau of Alcohol, Tobacco and Firearms, as well as to the local law enforcement authorities and the Engineer.

**C. Daily Drilling and Blasting Logs.** On a weekly basis, provide a daily log of the drilling and blasting operations. Update the log at the close of each business day.

Fill out the Department or blaster's drilling form to document the following: burden, spacing, bench height, hole depth and diameter, and subdrill depth. Document additional information about the drilling such as voids, mud seams, air pressure loss and lack of cuttings. The driller shall give this form to the blaster and the Department.

Document on the blasting log the number of blasts, times and dates of blasts, the blasting locations and patterns, and all of the following information:

1. Station limits of the shot.
2. Plan and section views of drill pattern including free face, burden, blast hole spacing, blast hole diameters, blast hole angles, lift height, and subdrill depth.
3. Loading diagram showing type and amount of explosive, primers, and initiators and location and depth of stemming.
4. Initiators sequence of blast holes including delay times and delay system in each blast hole.
5. Trade names and sizes of all explosives, primers, and initiators to be employed.
6. Signature of the blaster in charge.
7. Use the blaster's blasting form or the Blasting Report form in FHWA Publication FHWA-HI-92-001 *Rock Blasting and Overbreak Control*. Adapt these forms to meet the project requirements.

The drilling and blasting logs are for quality control, informational, and record keeping purposes. Review of the blast log by the Engineer does not relieve the Contractor of responsibility for the accuracy and adequacy of the drilling and blasting log.

**D. Video Recording of Blasts.** Record video of each blast. Index the recordings in a manner that permits easy and correct identification of each blast. Submit copies of the blast recordings on a weekly basis. If submitting the video recordings as electronic data files, furnish them in a video format acceptable to the Engineer and capable of being viewed on the Department's computers.

**208.21 Method of Measurement.** The Department will measure Presplitting by the number of square yards (square meters) along the slope face of the cut. The horizontal measurement will begin at the first hole and end at the last hole of the cut, and the vertical slope measurement will be along the sloped drill hole.

**208.22 Basis of Payment.** The Department will not make separate payment for the production blasting operations. Payment for the production blasting is incidental to the other work items in the Contract requiring blasting. The Department will pay for additional excavation volume resulting from the 2-foot (0.6 m) offsets at the Contract unit price for Item 203 Excavation. The Department will pay for the removal of this material beyond the excavation limits under 109.05.

The Department will pay lump sum for all work for the Pre-Blast Condition Survey, Blasting Consultant, Airblast and Noise Control, Vibration Control and Monitoring, and Hydrologist. The same person or consultant may perform the pre-blast survey, vibration control and monitoring, airblast and noise control, and the work required of the hydrologists. The Department may make intermediate payments based on the percentage of the work completed for Pre-Blast Condition Survey, Blasting Consultant, Airblast and Noise Control, Vibration Control and Monitoring, or Hydrologist.

Payment for guide holes is incidental to Presplitting. Payment for all of controlled blasting is included in the payment for Presplitting.

The Department will pay for stabilization under 109.05 if caused by geology. The Department will not pay for stabilization if caused by the Contractor's blasting operations.

The Department will pay for the placement and monitoring of piezometers according to 109.05.



*Exhibit 5*

**Guidance and Best Practices  
for Incorporating  
Environmental Justice  
into  
Ohio Transportation  
Planning and  
Environmental Processes**

**August, 2002**

## TABLE OF CONTENTS

	PAGE
I. INTRODUCTION	1
A. Definition of Environmental Justice.....	1
B. What is Environmental Justice?.....	2
C. Why Do ODOT and MPOs Need to Address EJ?.....	2
D. How Does Environmental Justice Improve Transportation Decision Making? .....	3
E. Ohio Environmental Justice Task Force .....	3
F. Purpose and Intended Uses for this Guidance .....	4
II. REGULATORY FRAMEWORK	5
III. DEMOGRAPHIC ISSUES	7
A. Area of Potential Impact .....	7
B. Definitions .....	7
C. Sources and Quality of Data Needed .....	8
D. Census Data .....	9
E. Identifying Target Populations .....	10
IV. DISPROPORTIONATE EFFECTS TESTS	12
A. Disproportionately high and adverse human health or environmental effects .....	12
B. Alternative Impact Tests .....	12
C. MORPC Approach .....	18
V. PUBLIC INVOLVEMENT RELATIVE TO EJ	20
A. Targeting Low Income and Minority Populations .....	20
B. Adapting Advertising .....	20
C. Meeting Location Consideration .....	21
D. Apathy and Distrust .....	2
E. Adapting Meetings .....	21
F. Availability of Public Documents .....	22
VI. INCORPORATING EJ INTO TRANSPORTATION PLANNING AND ENVIRONMENTAL PROCESSES	23
A. MPOs .....	23
1. Timing .....	24
2. Local Involvement in Developing EJ for MPO Area .....	24
3. Documentation / Mitigation .....	24

B.	ODOT .....	25
1.	Incorporating EJ into ODOT Processes .....	25
2.	Conduct STIP EJ Analysis .....	25
3.	Distribute Guidance and Conduct Training .....	26
4.	Prepare and Distribute Statewide Demographic Analysis .....	26
5.	Documentation / Mitigation .....	26
C.	Re-Evaluation, Compliance, and Finalizing Guidance .....	26
Appendix A	Ohio's E J Task Force Agendas and Issues	
Appendix B	MORPC - Executive Summary - EJ Report, April 2000	
Appendix C	President's February 11, 199 Executive Order 12898 - Actual Text	
Appendix D	US DOT Order on EJ, FHWA Guidance and Legal Background	
Appendix E	FHWA EJ Web Page Materials	
Appendix F	Transportation Equity in Los Angeles - A Summary of the 1996 Civil Rights Class Action Suit	

*This document is intended to provide guidance to Ohio MPOs and Ohio Department of Transportation (ODOT) staff on how to comply with Executive Order 12898 as per Title VI of the 1964 Civil Rights Act. The ideas, approaches and practices presented were developed and agreed to by an Ohio Environmental Justice Task Force composed of staff from the Ohio Office of the FHWA, several Ohio MPO's and transit authorities, and the ODOT. It was written and published by the ODOT, Office of Urban and Corridor Planning, 1980 W. Broad Street, Columbus, Ohio 43223 614 - 466-2307 [www.dot.state.oh.us/planning](http://www.dot.state.oh.us/planning) click on urban and corridor.*

## I. INTRODUCTION

A good transportation system is not optional for economically viable and sustainable communities. It is a critical component in addressing such issues as poverty, unemployment and equal opportunity, as well as ensuring equal access to employment, education and other public services. In the real world, however, the costs and benefits associated with transportation programs and activities are not always equitably distributed. Indeed, some communities reap disproportionate benefits from transportation development projects, while others bear the costs. Generally, benefits are more widely dispersed among the many travelers who use the transportation system, while the costs or burdens are more localized.

For the better part of the last half-century federal, state and local tax dollars have subsidized many of the roads, freeways and public transit systems in our nation that provide Americans with a quality of life unequaled throughout the world. Many of these transportation projects, unfortunately, have also had unintended consequences: dividing, isolating and disrupting some communities while at the same time imposing inequitable economic and environmental burdens on them. These consequences, or burdens raise the issues which give rise to the concept of Environmental Justice.

### A. DEFINITION OF ENVIRONMENTAL JUSTICE

The U.S. Environmental Protection Agency (EPA) Office of Environmental Justice (EJ) defines EJ as:

"The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies. Fair treatment means that no group of people, including racial, ethnic, or socio-economic group should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local and tribal programs and policies."

EJ applies to all programs and activities of Federal-aid recipients, whether those programs and activities are federally funded or not. This means that any agency which receives federal funds must:

- make a meaningful effort to involve low income and minority populations in the processes established to make decisions regarding its programs and activities, and
- evaluate the nature, extent, and incidence of probable and adverse human health or environmental impacts of its programs and activities upon minority or low-income populations.

## **B. WHAT IS ENVIRONMENTAL JUSTICE?**

Environmental Justice is not a new concern. The principles it embodies are rooted in Title VI of the Civil Rights Act of 1964 and previous civil rights legislation. Today, because of the evolution of the transportation planning process, EJ is simply a matter of increased awareness of the effects and impacts of transportation decisions on the human environment. There are three fundamental EJ principles:

- to avoid, minimize or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority and low-income populations,
- to ensure the full and fair participation by all potentially affected communities in the transportation decision making process, and
- to prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

## **C. WHY DO ODOT AND MPOs NEED TO ADDRESS EJ?**

The Ohio Department of Transportation (ODOT) and Ohio's Metropolitan Planning Organizations (MPOs) receive federal funding to support many of their programs and activities. Therefore, both ODOT and Ohio's MPOs must address the federal EJ requirements as a condition to receiving those funds. Local governments, serving as Local Public Agency (LPA) project coordinators must also comply.

EJ requirements are not new. On February 11, 1994 President Clinton signed Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations. However, the need to consider EJ was already embodied in many laws, regulations and policies such as Title VI of the Civil Rights Act of 1964 as previously mentioned, the National Environmental Policy Act of 1969 (NEPA), Title 23 of the United States Code (USC) Section 109 (h), and the Uniform Relocation and Real Property Acquisitions Policy Act of 1970, long before Executive Order 12898.

Title VI of the 1964 Civil Rights Act states that, "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Title VI prohibits intentional discrimination as well as disparate impact discrimination (i.e., a neutral policy or practice that has a disparate impact on low income and minority groups).

The 1994 Environmental Justice (EJ) Executive Order amplifies Title VI by providing that "each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs policies and activities on minority and low-income populations."

Increasingly, concerns for compliance with provisions of Title VI and the EJ Orders have been raised by citizens and advocacy groups with regard to broad patterns of transportation investments and impacts considered in metropolitan and statewide planning. While Title VI and EJ concerns have most often been raised during project development, it is important to recognize that the law also applies equally to the processes and products of planning and environmental analysis. The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) are to ensure compliance with Title VI in the planning process during their planning certification reviews conducted for Transportation Management Areas (TMAs) and through the statewide planning finding rendered at approval of the Statewide Transportation Improvement Program (STIP).

#### **D. HOW DOES ENVIRONMENTAL JUSTICE IMPROVE TRANSPORTATION DECISION MAKING?**

EJ is more than a set of legal and regulatory obligations. Properly implemented, EJ principles and procedures improve all levels of transportation decision making by:

- making better transportation decisions that meet the needs of all people,
- designing transportation facilities that fit more harmoniously into communities,
- enhancing the public involvement process and strengthening community-based partnerships,
- improving data collection, monitoring and analysis tools that assess the needs of minority and low-income populations,
- avoiding disproportionately high and adverse impacts on minority and low-income populations, and
- minimizing or mitigating unavoidable impacts by identifying concerns or issues early in the planning process.

#### **E. OHIO ENVIRONMENTAL JUSTICE TASK FORCE**

In an effort to develop a uniform statewide approach to address EJ, Ohio's transportation partners (Ohio FHWA, FTA, Ohio's MPOs, the Ohio Association of Regional Councils, and ODOT's Offices of Environmental Services, Transit, and Urban and Corridor Planning) established an Ohio EJ Task Force, which held its first meeting in February 2000. Copies of meeting agendas and issues discussed are included as Appendix A.

The purposes of the EJ Task Force was to:

- determine and agree upon the best approach or approaches for Ohio's transportation partners to address the federal EJ requirements,

- agree on minimal acceptable standards and actions that should be met to address federal EJ requirements, and
- develop educational materials, guidance documents and presentations to educate the transportation planning and environmental communities about EJ and what is expected to address EJ from an Ohio perspective.

This guidance document is one Task Force product.

#### **F. PURPOSE AND INTENDED USES FOR THIS GUIDANCE**

This guidance document is intended as a guide for ODOT, Ohio's local governments and MPOs. It discusses a series of economic, social, and environmental impact tests related to transportation system changes, and the incidence of these impacts on the locations of low-income populations and minority populations. It presents methods and approaches for ensuring that the interests of minority and low-income populations are considered and the impacts on these populations are identified and addressed within the current transportation decision-making processes. It presents concepts and guidance for developing public involvement programs that reach target populations.

This document is not intended to create a new or separate set of planning, environmental and project development processes. It presents the level of effort recommended to address the intent of the Executive Order. The recommended practices and procedures identified in this guidance have been tested by ODOT and Ohio MPOs for over a year and have been updated and refined, where necessary, to reflect lessons learned.

## II. REGULATORY FRAMEWORK

Not to sound redundant, but EJ did not create a new law or set of requirements. EJ is a presidential "Executive Order," which amplifies Title VI of the Civil Rights Act of 1964. There is no specific set of Federal or state EJ regulations to be met. The requirements imposed by EJ are to be achieved within the framework of existing laws, regulations and guidance.

The legal basis for addressing the concerns of minority and low income populations are the USDOT's Planning Regulations (23 CFR Part 450) which require MPOs and states to "seek out and consider the needs of those traditionally under served by existing transportation systems, including, but not limited to, low-income and minority households," NEPA and 23 USC 109(h).

Under ***Title VI of the Civil Rights Act of 1964*** and related statutes, each Federal agency (including the FHWA and FTA) is required to ensure that no person is excluded from participation in, denied the benefit of, or subjected to discrimination under any program or activity receiving Federal financial assistance on the basis of race, color, national origin, age, sex, disability, or religion.

The ***National Environmental Policy Act of 1969 (NEPA)*** stressed the importance of providing for, "all Americans safe, healthful, productive, and esthetically pleasing surroundings," and provided a requirement for taking a "systematic, interdisciplinary approach" to aid in considering environmental and community factors in decision-making.

This approach was further emphasized in the ***Federal-aid Highway Act of 1970***. 23 USC 109(h) established a further basis for equitable treatment of communities being affected by transportation projects. It requires consideration of the anticipated effects of proposed transportation projects upon residences, businesses, farms, accessibility of public facilities, tax base, and other community resources.

**President Clinton's 1994 Executive Order (EO 12898)** requires that each Federal agency shall, to the greatest extent allowed by law, administer and implement its programs, policies, and activities that affect human health or the environment so as to identify and avoid "disproportionately high and adverse" effects on minority and low-income populations. The major difference between Title VI and EO 12898 is that Title VI is binding on all recipients of federal assistance and creates enforceable legal rights. By Contract, EO 12898 applies only to agencies of the executive branch of the United States and does not create enforceable legal rights. Thus, when issues of enforcement arise, it is critically important to distinguish between Title VI and EO 12898.

The U. S. Department of Transportation published its draft ***Order To Address Environmental Justice in Minority Populations and Low-Income Populations*** in the Federal Register on June 29, 1995. The report was primarily a reaffirmation of the principles of Title VI.



On April 15, 1997, USDOT published the final ***Order To Address Environmental Justice in Minority Populations and Low-Income Populations*** (US DOT Order 5610.2). The order complies with the President's 1994 Executive Order.

An October 1, 1999, U.S. DOT letter interpreting EJ implied that transportation agencies are to ensure that low income populations and minority populations receive a proportionate share of benefit from federally funded transportation investments. Current FHWA guidelines, however, do not specifically address proportional benefits, focusing instead on "..... enhanced public involvement and an *analysis of the distribution of benefits and inputs.*" The guidance goes on to state that "there is *no presumed distribution of resources* to sustain compliance with EJ provisions." The more recent guidance, which takes precedence in this situation, implies that there may be circumstances where FHWA can and will approve actions with disproportionate benefits or burdens.

On May 25 and 26, 2000 the USDOT issued proposed rules to redesignate Parts 450 and 771 of 23 CFR to Parts 1410 and 1420, respectively and Part 613 of 49 CFR to Part 621. (Part 450 of 23 CFR and Part 613 of 49CFR address the federal requirements for statewide and metropolitan transportation planning. Part 771 of 23 CFR addresses the FHWA and FTA NEPA requirements). These proposed rules, which included interpretations and actions needed to comply with EJ, were never enacted and it does not appear that EJ will be included in future proposals. This guidance document will be revised accordingly, should any significant changes be warranted.

### III. DEMOGRAPHIC ISSUES

The Ohio EJ Task Force strongly recommends that issues which give rise to EJ be identified and addressed at the start of the planning process. It is critical to identify low income and minority populations prior to or early in the study process, so that they themselves can determine the extent of their involvement at every phase. For a planning study this means that EJ populations should be involved in the earliest stages, including the development of the Public Involvement Plan (PIP), which in turn, will clearly identify when and how they will have opportunities to participate in the decision making process. To identify the impacted populations, the project or study sponsor must first a) identify the geographic area or impact, and b) define what constitutes low income and minority populations.

#### A. AREA OF POTENTIAL IMPACT

Identification of the geographic area likely to be impacted by particular programs and activities will vary depending on their intended purpose. For example, if an MPO or state is developing or updating its long range plan, the geographic area to be evaluated encompasses the entire MPO region or the entire state. If the program or activity is dedicated to a specific project area or corridor, then the geographic area for the EJ analysis would include, at a minimum, all areas within the logical termini of the project area as well as adjacent areas that may reasonably be impacted. Many transportation projects have far reaching impacts. It is, therefore, probable that the area of impact may be a considerably larger area than the project termini.

The determination of "project impact area" should be presented, reviewed, and agreed upon by the participants and documented in the public involvement process.

#### B. DEFINITIONS

What constitutes low income and minority populations is defined by final USDOT Order 5610.2 on Environmental Justice, issued in the April 15, 1997 Federal Register.

Low-income is defined as a person whose median household income is at or below the U.S. Department of Health and Human Services poverty guidelines.

Minority is defined as a person who is: (1) Black (a person having origins in any of the black racial groups of Africa); (2) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race); (3) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); or (4) American Indian and Alaskan Native (a person having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition).

Low-Income Population is defined as any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy or activity.

Minority Population is defined as any readily identifiable group of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy or activity.

It is noteworthy that EO 12898 and USDOT Order 5610.2 address minority populations and low-income populations, only. They do not provide for separate consideration of the elderly, children, persons with disabilities, or other population groups such as households without cars or access to them. However, concentrations of these populations protected by Title VI and related nondiscrimination statutes in a specific area should be included in any EJ discussion or documentation. These groups are not discussed specifically in this guidance; however, in keeping with the spirit of EJ, Title VI, and ODOT's advocacy of inclusive public involvement and equal treatment of all persons, agencies may wish to consider including these groups at the same level of analysis as low income and minority populations.

### C. SOURCES AND QUALITY OF DATA NEEDED

A variety of data sources record and maintain statistics relative to low income and minority populations. The Ohio EJ Task Force joins FHWA and FTA in recommending the use of the U.S. Bureau of the Census as the primary source of data to identify low income and minority populations. Census data lists specific definitions of minority groups that can be useful to determine minority populations, especially in urban areas. The percentage of non-white population at the census block level is also available. Program, project and study sponsors should also consult reliable local data sources such as township assessors, social service agencies, local health organizations, local public agencies, and community action agencies. As an additional step, ask participants during the public involvement process if all known low income and minority populations have been identified and included.

Should a data source other than the Census be used exclusively, the quality and integrity of the data must be evaluated in terms of its accessibility, age and update cycle, uniformity and format, and comprehensiveness, as discussed below:

- |                       |  |
|-----------------------|--|
| Accessibility:        | Some data sources may be "proprietary" and may not be readily available.   |
| Age and Update Cycle: | Some data sources may not be uniformly updated, such as student and household data from multiple school districts. Some districts may update their data annually while others update data less frequently. |

- Uniformity and Format:** Multiple data sources may not use the same or similar categorical thresholds to segregate information. For example, a local data source for household income may not use thresholds consistent with those used by the US Department of Health and Human Services to establish poverty guidelines, or household income may be categorized by the same dollar threshold values but not take household size into consideration. Additionally, single data sources may not cover the entire geographic area of impact. If county welfare data or school district data is used, and the impacted area requires using data from several agencies or districts, each may collect it differently or use different formats or thresholds in defining income levels.
- Comprehensiveness:** Some data bases maintained by state or local government agencies may be limited to target sectors of society, e.g., the number of school district students receiving or eligible for free or reduced lunches, households receiving public assistance, or Head Start Program participants. These data bases may likely have limited or partial populations. For instance, school district data may omit minority populations or low income individuals without school age children and county human service agencies may have deleted low income populations who are no longer eligible to receive public assistance.

#### **D. CENSUS DATA**

In addition to counting people, the decennial census uses a "long form" to collect and record demographic, housing, social, and economic information from one in every six households (16.6%). This sample information is used for the administration of federal programs and the distribution of \$Billions in federal assistance and aid. Because this socioeconomic data has traditionally only been collected every ten years, it quickly becomes dated.

The Census Bureau is in the process of replacing the long form with the "American Community Survey." This survey will provide data to communities every year instead of every ten years. Data will be collected through on-going surveys that will give community leaders and other data users recent information for planning and evaluating public programs.

The survey will include three million households nationwide, with data collected by mail and Census Bureau staff follow up for those who do not respond. The American Community Survey will provide estimates of demographic, housing, social, and economic characteristics every year for all states and all cities, counties, metropolitan areas, and population groups of 65,000 people or more. This data collection effort will begin in 2003 and the results will be available in 2004. For less populated regions, it will take two-to-five years to accumulate sufficient samples to produce data for areas as small as census tracts.

However, once sufficient samples are collected, agencies and officials from even the smallest areas or regions will be able to measure and analyze annual data over smaller increments of time rather than once every ten years.

## **E. IDENTIFYING TARGET POPULATIONS**

Once the geographic area to be impacted by a program or activity is determined, low income and minority populations should be identified through census data or the best data available.

As a first step, any existing planning studies for the proposed project area should be reviewed to determine if locations housing minority and low-income populations may have already been identified. If this approach is not adequate, the following is one recommended suggestion:

- identify the number and the percentage of low income and minority populations in the entire MPO area, project impact region or the state,
- calculate the average percentage of low income and minority populations for the entire region, project area or state, and
- use that percentage as a reference point to identify locations with target EJ populations of low income and minority populations.

Typically low income and minority populations are spread throughout the regional area and state but are likely to be located in concentrated locations or neighborhoods that have a significantly higher percentage of low income and minority population than the regional or statewide average. These areas can then be identified as "target areas."

Several methods may be used to identify "target areas." For example:

- If there is no concentration of low income or minority populations in a project area, it may be reasonable to use the state or regional average as the base and any area with a percentage equal to or exceeding the state or regional average is considered adequate to identify as a "target area."
- There are several ways to determine if a percentage or range is sufficiently higher than the regional or statewide average to warrant designation as a "target area." One approach is to first determine the regional or statewide average percentage of minority or low income populations. Use this number as the reference threshold population percentage for defining a low income or minority target area. Then plot or map the locations of low income areas exceeding the statewide average in 25% increments. For example, if the average statewide minority population was established at 12%, the defined ranges would be 12-15% ( $12\% + (12\% \times 25\%)$ ), 15-18% ( $12 + (12 \times 25\%) + (12\% \times 50\%)$ ) and so on. The first range would be close to but just above the

regional or statewide average and may or may not be designated as a target area, depending on its relative significance when compared to the values assigned to the higher ranges. Typically, however, all areas exceeding the statewide or regional average would be identified as a target area. Examples of this type of analysis are available in the Mid Ohio Regional Planning Commission (MORPC) Environmental Justice Report, dated April 2000. The Executive Summary for MORPC's EJ report is included in this guidance as Appendix B. The complete report is available for viewing or downloading on MORPC's website: [www.morpc.org/trans/EnvirJust/envjust.h](http://www.morpc.org/trans/EnvirJust/envjust.h).

- If there is any doubt about what constitutes a reasonable concentration of low income or minority populations to be considered a target population, it is recommended that the statewide average be used as the point of reference for making the determination.
- If, on the other hand, an entire project or regional area exceeds the statewide average (for example, 90 % of the people in certain sections of Appalachia are low income), then all sections within the region would be both equally benefitted and negatively impacted. An EJ analysis for such an area, therefore, would require applying the tests for benefits and potential harm of a proposed program or activity from a statewide perspective.

The basis for Environmental Justice is to minimize disproportionate adverse impact. Even a very small minority or low-income population in a project (or study) area does not eliminate the possibility of a disproportionately high or adverse effect of a proposed action or project. It is especially important, in cases where a project impacts a very small number or area of low income or minority population, to thoroughly document in both the planning and NEPA processes that:

- other reasonable alternatives were evaluated and eliminated because they impacted far greater numbers of people or did greater harm to the environment, etc.,
- the project's impact was unavoidable,
- the benefits of the project far out-weighed the overall negative impact, and
- the mitigation measures being taken to reduce the harm to the low income or minority population are identified.

If it is concluded that no minority and/or low-income population is present in a project area, documentation needs to indicate how that conclusion was reached. If it is determined that one or both of these populations are present in the area, potential disproportionate tests will then have to be administered.

## IV. DISPROPORTIONATE EFFECTS TESTS

After the target population areas have been identified, the actual EJ analysis or "tests" for disproportionately high and adverse effects and equal benefit should be conducted.

### A. DISPROPORTIONATELY HIGH AND ADVERSE HUMAN HEALTH OR ENVIRONMENTAL EFFECTS

The following definitions are contained in the April 15, 1997 Federal Register issuing the Final US DOT Order on Environmental Justice:

Adverse effects are defined as the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death; air, noise, and water pollution and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or nonprofit organizations; increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of, benefits of DOT programs, policies, or activities.

Disproportionately high and adverse effect on minority and low-income populations is defined as an adverse effect that: (1) is predominately borne by a minority population and/or a low-income population, or (2) will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

### B. ALTERNATIVE IMPACTS AND TESTS

Identifying objective methods to evaluate potential economic, social, and environmental impacts of transportation system changes on a target population is an imposing task. When evaluating adverse impact or proportionate benefits, two questions must be addressed:

- What types of impacts should be identified and evaluated?, and
- How can the positive and negative impacts be "tested" quantitatively or subjectively?

Some of the impacts specifically identified in EO 12898 can be quantified in measurable units, such as residential displacements, business and farm displacements, estimated travel times, air quality changes and noise increases. Other impacts, such as feelings of anxiety

due to separation and isolation, destruction of aesthetic value, decreased land value projections, and adverse employment lend themselves poorly to quantitative analysis and should to be evaluated based on qualitative standards. They will require subjective analysis by staff and discussion during the public involvement process. Some impacts will require both types of evaluation.

The adverse effects identified in the DOT Order (5610.2) can be grouped into fourteen (14) impact categories. Following is a list of the 14 impacts and possible measures or questions that can be used to determine if they are disproportionate for a target area or population. It is recommended that each impact be rated or scored for the project area, regional area or state and again for the target area or population. The format for this type of analysis is best demonstrated by the use of a matrix similar to the one below. The ratings can then be compared to determine the potential for disproportionate impacts.

Each impact could be evaluated by asking and rating the suggested questions which follow. A matrix placing the following variables on one axis and the 14 impacts on the other axis could be developed. Using this type matrix on a project by project basis can provide a visually simple comparative impact analysis. The suggested questions under each impact can be expanded or reduced depending on the project being analyzed.

Current Measure or Value in Region or State	Altered Measure or Value in Region or State	Positive Impact / Benefit to Region or State	Adverse Impact to Region or State	Current Measure or Value W/in Target Population or Area	Altered Measure or Value W/in Target Population or Area	Positive Impact / Benefit to Target Population or Area	Adverse Impact to Target Population or Area	Short Term Impact	Long Term Impact
---	---	--	-----------------------------------	---	---	--	---	-------------------	------------------

# **1. IMPACT: BODILY IMPAIRMENT, INFIRMITY, ILLNESS OR DEATH**

## **ANALYSIS QUESTIONS:**

### **Quantitative:**

How will the traffic speed within the target area change?

How will traffic volumes change?

Is there a change in the volume or pattern of through traffic on local (target area) streets?

### **Subjective:**

Will there be a change in the relative safety in the target area for pedestrians, bicyclists, motorists?

Will the safe and easy access to community or regional resources (shopping, bus stops, schools, etc) be changed?



**2. IMPACT: AIR, NOISE, AND WATER POLLUTION AND SOIL CONTAMINATION**

**ANALYSIS QUESTIONS:**

Quantitative:

- Will traffic noise level change?
- Will traffic induced air quality change?
- Will local waters and soil contamination levels change?

Subjective:

- Will overall air, water, and noise quality of the target area change?

**3. IMPACT: DESTRUCTION OR DISRUPTION OF MAN-MADE OR NATURAL RESOURCES**

**ANALYSIS QUESTIONS:**

Quantitative:

- Will the number of trees and other plants change?
- Will waterways such as streams and brooks change?
- Will the number or size of parks, parkland or outdoor recreational opportunities change?

Subjective:

- Will the changes provide overall improvement or harm to the natural and man made resources?

**4. IMPACT: DESTRUCTION OR DIMINUTION OF AESTHETIC VALUES**

**ANALYSIS QUESTIONS:**

Quantitative:

- Will any public art or statutes be added, moved or removed?
- What % of project costs are being spent on enhancements?
- Will the amount of open space change?

Subjective:

- Is the improvement attractive?
- Will the view or vista change?

**5. IMPACT: DESTRUCTION OR DISRUPTION OF COMMUNITY COHESION**

**ANALYSIS QUESTIONS:**

**Quantitative:**

Will man-made dividers, (such as an overpass, bridge, 4 lane or greater roadway or rail tracks) be constructed through a portion of an existing community and cause it to be segmented?

**Subjective:**

Is the proposed project or plan perceived to significantly benefit one portion of an existing neighborhood and significantly harm another portion of the same neighborhood?

**6. IMPACT: DESTRUCTION OR DISRUPTION OF A COMMUNITY'S ECONOMIC VITALITY**

**ANALYSIS QUESTIONS:**

**Quantitative:**

Will the number of locally owned businesses in the target area change?  
Will the total number of businesses in the target area change?

**Subjective:**

Will the financial investment benefit the target area's population?  
Will property owners land value change?  
Will the number of jobs available in the target area change?

**7. IMPACT: DESTRUCTION OR DISRUPTION OF THE AVAILABILITY OF PUBLIC AND PRIVATE FACILITIES AND SERVICES**

**ANALYSIS QUESTIONS:**

**Quantitative:**

Will the time to travel to public and private facilities and services (such as schools, medical facilities, shopping, community centers, libraries, etc. change? (Note: See MORPC analysis in Appendix B for computer modeling analysis to evaluate this impact.)

Will there be a change in the number and type of impediments to access public and private facilities (such as more or wider roadway crossing, additional bus transfers and increased walking distance to bus stops)?

Will the number or location of public or private facilities be changed?

Subjective:

Will changes to the perceived distance to or difficulty to get to public and private facilities from the target area result in target populations "giving up" interest in using them?

**8. IMPACT: VIBRATION**

**ANALYSIS QUESTIONS:**

Quantitative:

Will vibration levels caused by increased traffic or transit improvements change?

Subjective:

Will vibration levels caused by increased traffic or transit improvements change?

**9. IMPACT: ADVERSE EMPLOYMENT EFFECTS**

**ANALYSIS QUESTIONS:**

Quantitative:

Will time to travel to jobs throughout the regional area change?  
Will time to travel to jobs within the target area change?  
Will the number of jobs change (How many jobs within the target area vs. regional area or state will be lost / gained?)

Subjective:

Will the type of jobs available within the target area change?  
Will the target area become a more attractive place for employers to locate their facilities?

**10. IMPACT: DISPLACEMENT OF PERSONS, BUSINESSES, FARMS, OR NONPROFIT ORGANIZATIONS**

**ANALYSIS QUESTIONS:**

Quantitative:

How many target vs non-target population persons will be displaced?

How many target vs non-target population businesses will be displaced?

How many target vs non-target population farms will be displaced?

How many target vs non-target population non-profit corporations will be displaced?

**Subjective:**

Will an alternative project location or project approach (which meets the project or plan's purpose and need) displace fewer target vs non-target population persons, businesses, farms or non-profit corporations?

**11. IMPACT: INCREASED TRAFFIC CONGESTION**

**ANALYSIS QUESTIONS:**

**Quantitative:**

Will traffic congestion levels change?

**12. IMPACT: ISOLATION**

**ANALYSIS QUESTIONS:**

**Quantitative:**

Will access roadways into and out of the target area become dead ends or be cut-off?

**Subjective**

Will roadways, bridges and other traffic improvements be constructed to surround the target area and create the feeling of an isolated "island"?

**13. IMPACT: EXCLUSION OR SEPARATION OF MINORITY OR LOW-INCOME INDIVIDUALS WITHIN A GIVEN COMMUNITY OR FROM THE BROADER COMMUNITY**

**ANALYSIS QUESTIONS:**

**Quantitative:**

Will the transportation changes result in increased travel time from the target area to community resources such as schools, churches, shopping, jobs, recreational facilities, etc? (Note: See MORPC

analysis in Appendix B for computer modeling analysis to evaluate this impact.)

**Subjective:**

Will the transportation improvements increase the feeling of exclusion or alienation between the target populations and the broader region or state?

**14. IMPACT: THE DENIAL OF, REDUCTION IN, OR SIGNIFICANT DELAY IN THE RECEIPT OF, BENEFITS**

**ANALYSIS QUESTIONS:**

**Quantitative:**

Will access to or use of the transportation improvement be denied to any low income or minority population or groups (for reasons such as cost to use, ability to access, etc.)?

Will access to or use of the transportation improvement be denied or more difficult to access based on its location?

**Subjective:**

Will the overall benefits and improvements being proposed by the plan or project be available to the same level and within the same basic time frame to the target population as it will to the broader community, region, or state?

It is important in conducting the above analysis that the impacts have been discussed and evaluated, even at a subjective level; some type of a "balance sheet" is prepared; and the 14 issues are presented through the public involvement process to the target area population for their comment and suggestions for evaluation and mitigation. To avoid having to collect massive amounts of new data for every plan or project, it is possible to use the data currently in the MPO models and compare changes based on Traffic Analysis Zones (TAZ). Again, examples of this type of analysis can be found in the MORPC EJ Report previously referenced. Remember, EJ was not intended to create massive amounts of new data or work. It was intended to ensure nondiscrimination in federally funded activities.

**C. MORPC APPROACH**

Early in 2000 the Mid-Ohio Regional Planning Commission (MORPC) formed an MPO Environmental Justice Task Force to assess and ensure compliance of its transportation planning process, plans, and Transportation Improvement Program with Title VI. MORPC had to move quickly because its Federal MPO Certification Review was scheduled for May

1, 2000. For this reason, the MORPC Task Force not only developed an approach for addressing EJ, it also applied its approach to its MPO area. The summary and results of their efforts are attached to this guidance document as Appendix B. MORPC's EJ approach and application efforts were very well received by FHWA, FTA and ODOT staff and the Ohio EJ Task Force.

The MORPC Task Force reviewed the Public Involvement Process for inclusion of targeted (minority or low-income) populations in transportation decision making; developed, identified, and reviewed the application of measures to gauge regional burdens and benefits of transportation system investments on the targeted populations; and recommended strategies to improve or mitigate any negative impacts on targeted populations.

Fourteen measures and thresholds were applied to compare the relative treatment of the targeted and non-targeted populations in the planning process. The data set used for this initial analysis of Environmental Justice was derived from the 1990 census.

The measures contained in the final report are now applied by MORPC to evaluate the potential adverse affects and benefits associated with the set of projects in its Transportation Plan and Transportation Improvement Program.

Exhibit 4

reasonable detail the facts pertaining to the default and specifies the method of cure, and (iii) the default shall not have been remedied within sixty (60) days after Lessee, or within one hundred twenty (120) days in the case of all Assignees and Tenants, receive the written notice, or, if cure will take longer than 60 days for Lessee or 120 days for any Assignee or any Tenant, Lessee, or an Assignee or Tenant on Lessee's behalf, has not begun to diligently take measures to cure the default within the relevant time period and thereafter diligently prosecute the cure to completion.

12.3 Effect of Termination. Upon termination of this Agreement, whether as to the entire Property or only as to part, Lessee shall (i) upon written request by Landowner, execute and record a quitclaim deed to Landowner of all of Lessee's right, title and interest in and to the Property, or to that part thereof as to which this Agreement has been terminated, and (ii) as soon as practicable thereafter, remove all Windpower Facilities from the Property or portion as to which this Agreement was terminated, exclusive of any continuing right established pursuant to this Agreement to survive the term of this Agreement, and restore the soil surface to a condition reasonably similar to its original condition. If Lessee fails to remove such Windpower Facilities within twelve (12) months of termination of this Agreement, Landowner may do so, in which case Lessee shall reimburse Landowner for reasonable and actual costs of removal incurred by Landowner, less any salvage value of the Windpower Facilities received by Landowner, within thirty (30) days after receipt of an invoice from Landowner.

12.4 Cumulative Remedies. Subject to the other terms and conditions of this Agreement, each party shall have all rights and remedies available at law and in equity for any breach of this Agreement by the other party.

### 13. Miscellaneous.

13.1 Force Majeure. If performance of this Agreement or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of Force Majeure (defined below), the affected party, upon giving notice to the other party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction or interference. The affected party shall use its reasonable efforts to avoid or remove such causes of nonperformance and shall continue performance hereunder whenever such causes are removed. "Force Majeure" means fire, earthquake, flood or other casualty or accident; strikes or labor disputes; war, civil strife or other violence, any law, order, proclamation, regulation, ordinance, action, demand or requirement of any government agency or utility, or any other act or condition beyond the reasonable control of a party hereto.

13.2 Confidentiality. Landowner shall maintain in the strictest confidence, for the benefit of Lessee, any Assignee or Tenant, all information pertaining to the financial terms of or payments under this Agreement, Lessee's site or product design, methods of operation, methods of construction, power production or availability of the Windpower Facilities, and the like, whether disclosed by Lessee, any Assignee or Tenant, or discovered by Landowner, unless such information either (i) is in the public domain by reason of prior publication through no act or omission of Landowner or its employees or agents; or (ii) was already known to Landowner at the time of disclosure and which Landowner is free to use or disclose without breach of any obligation to any person or entity. Landowner shall not use such information for its own benefit, publish or otherwise disclose it to others, or permit its use by others for their benefit or to the detriment of Lessee, any Assignee or Tenant. Notwithstanding the foregoing, Landowner may disclose such information to Landowner's lenders, attorneys, accountants and other personal financial advisors solely for use in connection with their representation of Landowner regarding this Agreement; any prospective purchaser of the Property who has made a written offer to purchase or otherwise acquire the Property that Landowner desires to accept; or pursuant to lawful process, subpoena or court order requiring such disclosure, provided Landowner in making such disclosure advises the party receiving the information of the confidentiality of the information and obtains the written agreement of

said party not to disclose the information, which agreement shall run to the benefit of and be enforceable by Lessee. Landowner shall get Lessee's written consent before issuing a press release or having any contact with or responding to the news media with any operational, sensitive or confidential information with respect to this Agreement, the wind power project to be constructed on the Property by Lessee, or any other existing wind power project owned or operated by Lessee. The provisions of this Section shall survive the termination or expiration of this Agreement.

13.3 Successors and Assigns. The Agreement shall burden the Property and shall run with the land. This Agreement shall inure to the benefit of and be binding upon Landowner and Lessee and, to the extent provided in any assignment or other transfer under Section 10 hereof, any Assignee or Tenant, and their respective heirs, transferees, successors and assigns, and all persons claiming under them. References to "Lessee" in this Agreement shall be deemed to include Lessee's successors and any Assignees and Tenants, which hold a direct ownership interest in this Agreement and actually are exercising rights under this Agreement to the extent consistent with such interest.

13.4 Memorandum of Lease. Landowner and Lessee shall execute in recordable form, and Lessee shall then record, a memorandum of the lease evidenced by this Agreement, in substantially the form set forth in Exhibit D. Landowner hereby consents to the recordation of the interest of an Assignee in the Property.

13.5 Notices. All notices or other communications required or permitted by this Agreement, including payments to Landowner, shall be in writing and shall be deemed given when personally delivered, or in lieu of such personal service, five (5) days after deposit in the United States mail, first class, postage prepaid, certified, or the next business day if sent by reputable overnight courier, provided receipt is obtained and charges prepaid by the delivering party. Any notice shall be addressed as follows:

If to Landowner:

**Robert Rietschlin**  
7854 German Road  
Crestline, OH 44827

Telephone No. \_\_\_\_\_

If to Lessee:

**Black Fork Wind LLC**  
Attn: Chief Operating Officer  
1560 Broadway, Suite 2100  
Denver, CO 80202  
Telephone No. (303) 831-4673

Any party may change its address for purposes of this paragraph by giving written notice of such change to the other parties in the manner provided in this paragraph.

13.6 Entire Agreement; Amendments. This Agreement and the Exhibits hereto constitute the entire agreement between Landowner and Lessee respecting its subject matter. Any agreement, understanding or representation respecting the Property, this Agreement, the Project or any other matter referenced herein not expressly set forth in this Agreement, or in a subsequent writing signed by both parties, is null and void. This Agreement shall not be modified or amended except in a writing signed by all parties hereto. No purported modifications or amendments, including, without limitation, any oral agreement (even if supported by new consideration), course of conduct or absence of a response to a unilateral communication, shall be binding on either party.



[http://www.epa.gov/fedfac/documents/executive\\_order\\_12898.htm](http://www.epa.gov/fedfac/documents/executive_order_12898.htm)

Last updated on Wednesday, August 18, 2010

## Federal Facilities Restoration and Reuse Office (FFRRO)

You are here: EPA Home » Federal Facilities Restoration and Reuse Office » EPA Insight Policy Paper: Executive Order #12898 on Environmental Justice

# EPA Insight Policy Paper: Executive Order #12898 on Environmental Justice

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PDF Version (2 pp, 258K, About PDF)

### On this page

- Memorandum from President Clinton
- Statement from EPA Administrator Carol Browner
- Fact Sheet on the Environmental Justice Executive Order

## Memorandum from President Clinton

**MARCH 1994**

**EPA-175-N-94-001**

Below is a memorandum from President Clinton to the heads of all departments and agencies on "Executive Order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" -- February 11, 1994:

Today I have issued an Executive Order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. That order is designed to focus Federal attention on the environmental and human health conditions in minority communities and low-income communities with the goal of achieving environmental justice. That order is also intended to promote nondiscrimination in Federal programs substantially affecting human health and the environment, and to provide minority communities and low-income communities access to public information on, and an opportunity for public participation in, matters relating to human health or the environment.

The purpose of this separate memorandum is to underscore certain provisions of existing law that can help ensure that all communities and persons across this Nation live in a safe and healthful environment. Environmental and civil rights statutes provide many opportunities to address environmental hazards in minority communities and low income communities. Application of these existing statutory provisions is an important part of this Administration's efforts to prevent those minority communities and low income communities from being subject to disproportionately high and adverse environmental effects.

I am therefore today directing that all department and agency heads take appropriate and necessary steps to ensure that the following specific directives are implemented immediately:

In accordance with Title VI of the Civil Rights Act of 1964, each Federal agency shall ensure that all programs or activities receiving Federal financial assistance that affect human health or the environment do not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin.

**EPA Insight Policy Paper: Executive Order #12898 on Environmental Justice | Federal Facilities Re... Page 2 of 4**

Each Federal agency shall analyze the environmental effects, including human health, economic and social effects, of Federal actions, including effects on minority communities and low-income communities, when such analysis is required by the National Environmental Policy Act of 1969 (NEPA), 42 V.S.C. section 4321 et seq. Mitigation measures outlined or analyzed in an environmental assessment, environmental impact statement, or record of decision, whenever feasible, should address significant and adverse environmental effects of proposed Federal actions on minority communities and low-income communities.

Each Federal agency shall provide opportunities for community input in the NEPA process, including identifying potential effects and mitigation measures in consultation with affected communities and improving the accessibility of meetings, crucial documents, and notices.

The Environmental Protection Agency, when reviewing environmental effects of proposed action of other Federal agencies under section 309 of the Clean Air Act, 42 V.S.C. section 7609, shall ensure that the involved agency has fully analyzed environmental effects on minority communities and low-income communities, including human health, social, and economic effects.

Each Federal agency shall ensure that the public, including minority communities and low-income communities, has adequate access to public information relating to human health or environmental planning, regulations, and enforcement when required under the Freedom of Information Act, 5 V.S.C. section 552, the Sunshine Act, 5 V.S.C. section 552b, and the Emergency Planning and Community Right-to-Know Act, 42 V.S.C. section 11044.

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## **Statement from EPA Administrator Carol Browner**

The following is a statement from EPA Administrator Carol Browner on the Environmental Justice Executive Order:

For too long, low-income communities and minority communities have borne a disproportionate burden of modern industrial life. Today's Executive Order seeks to bring justice to these communities.

All Americans deserve to be protected from pollution -- not just those who can afford to live in the cleanest, safest communities. All Americans deserve clean air, pure water, land that is safe to live on, food that is safe to eat.

Last April, on Earth Day, President Clinton called on federal agencies to ensure equal environmental protection to all Americans. Today's Executive Order means that federal agencies will address environmental injustice --past, present, and future.

We will develop strategies to bring justice to Americans who are suffering disproportionately -- farm workers who are exposed to high-risk pesticides, children who are exposed to lead paint in old buildings, people who fish in polluted waters, those who live near hazardous waste incinerators.

We will develop strategies to ensure that low-income and minority communities have access to information about their environment -- and that have an opportunity to participate in shaping government policies that affect their health and their environment.

The Clinton Administration's proposal to reform our Superfund law speaks to these concerns -- by increasing public participation in Superfund decision-making. The President has asked me to convene an interagency working group to begin to implement the Executive Order.

I look forward to working with my colleagues in this Administration to ensure that all Americans have a safe and healthy environment.

## **Fact Sheet on the Environmental Justice Executive Order**

Below is a fact sheet on the Environmental Justice Executive Order:

### **Environmental Justice Strategies**

- Each federal agency must develop within one year an environmental justice strategy that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.

### **Public Participation and Access to Information**

- To ensure adequate public participation and access to information, Federal agencies must:
- Solicit public recommendations in developing and implementing environmental justice strategies;
- Use public documents that are concise and understandable;
- Promote a better public understanding of risks associated with principally relying on fish or wildlife for subsistence;
- Translate appropriate public documents for limited-English speaking populations;
- Allow public participation in the development of certain research strategies.

### **Interagency Working Group**

- The executive order creates an interagency working group chaired by the EPA Administrator and composed of other agency heads.
- The working group will:
- Provide guidance, coordinate, and review the Federal government's implementation of the Executive Order;
- Hold public meetings for fact-finding, receiving public comments, and conducting inquiries into environmental justice.

### **Research and Data Collection**

- Agencies shall, whenever practicable and appropriate:
- Include diverse segments of the population in epidemiological and clinical studies and identify multiple and cumulative exposures;
- Collect, maintain, and analyze information in order to provide assessments of environmental and human health risks borne by populations identified by income, race, and national origin.
- Agencies shall collect, maintain, and analyze information on the race, national origin, and income levels of areas surrounding the following types of facilities, if they are expected to have a substantial environmental, human health or economic effect on surrounding populations:
- Federal facilities subject to the Emergency Planning and Community Right-to-Know Act's reporting requirements; and
- Facilities that become the subject of substantial Federal administrative or judicial action.

### **Federal Program**

- Each federal agency must conduct its programs and activities that substantially affect human health or the environment on a manner that does not exclude participation in, deny benefits of, or discriminate against persons or populations because of their race, color, or national origin.

### **Subsistence Consumption of Fish and Wildlife**

- Federal agencies must collect, maintain, and analyze information on the consumption patterns of populations that principally rely on fish and/or wildlife for subsistence and communicate the risks of those consumption patterns.

## EPA Insight Policy Paper: Executive Order #12898 on Environmental Justice | Federal Facilities Re... Page 4 of 4

- Federal agencies, as appropriate, must publish guidance on methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife and consider such guidance in developing their policies and rules.

**General Provisions**

- The Executive Order:
- Covers agencies that conduct programs or activities that substantially affect human health or the environment;
- Requires implementation to be consistent with the principles set forth in the National Performance Review;
- Applies to Federal agency activities in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.
- Requires Federal agencies to assume any financial costs of complying with the Executive Order, unless otherwise provided by law.

<http://www.epa.gov/environmentaljustice/basics/index.html>

Last updated on Tuesday, March 15, 2011

## Environmental Justice

You are here: EPA Home » Compliance and Enforcement » Environmental Justice » Basic Information

### Basic Information

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#### Basic Information

Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

What is meant by fair treatment and meaningful involvement?

- **Fair treatment** means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies
- **Meaningful Involvement** means that:
  1. people have an opportunity to participate in decisions about activities that may affect their environment and/or health;
  2. the public's contribution can influence the regulatory agency's decision;
  3. their concerns will be considered in the decision making process; and
  4. the decision makers seek out and facilitate the involvement of those potentially affected

#### EPA and Environmental Justice

EPA's goal is to provide an environment where all people enjoy the same degree of protection from environmental and health hazards and equal access to the decision-making process to maintain a healthy environment in which to live, learn, and work.

EPA's environmental justice mandate extends to all of the Agency's work, including setting standards, permitting facilities, awarding grants, issuing licenses and regulations and reviewing proposed actions by the federal agencies. EPA works with all stakeholders to constructively and collaboratively address environmental and public health issues and concerns. The Office of Environmental Justice (OEJ) coordinates the Agency's efforts to integrate environmental justice into all policies, programs, and activities. The Office also provides information, technical and financial resources to assist and enable the Agency to meet its environmental justice goals and objectives.

Learn more on the history of Environmental Justice...

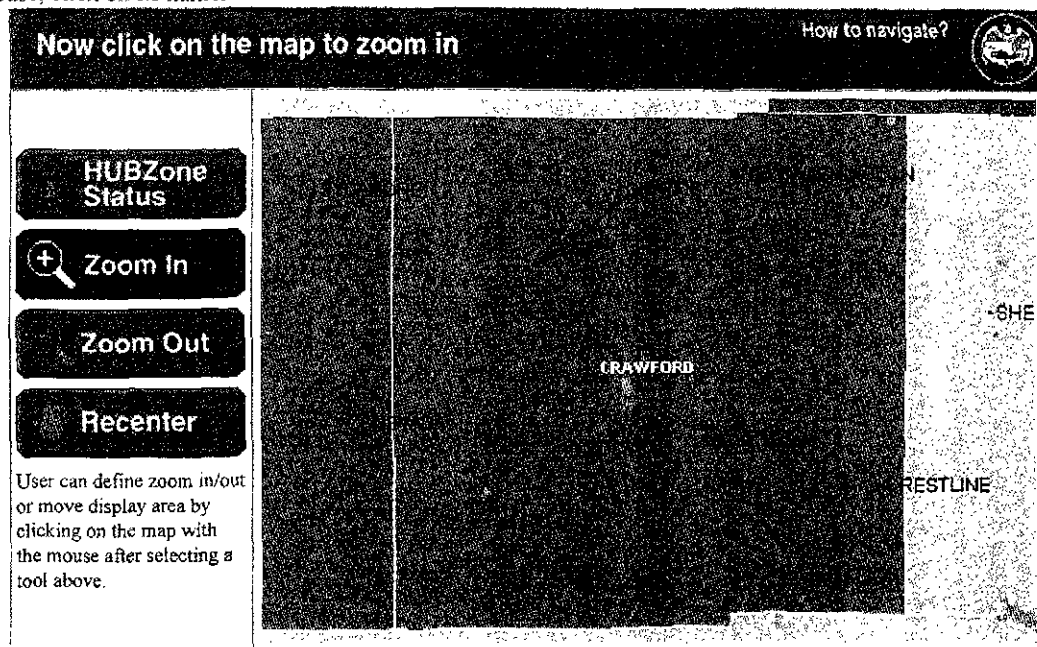
Exhibit 9

[U.S. Map](#)[Address-Town-County  
Search](#)[Help](#)[Text-Only  
Version](#)

## DETERMINATION OF WHETHER A NON-METROPOLITAN COUNTY IS QUALIFIED AS A HUBZONE

**Crawford, OH IS HUBZone qualified.**

Below the map, you may find information on why the county was found to be qualified as a HUBZone. You may also find listings of census tracts, Indian Country areas, and former military bases in the county that are qualified HUBZone areas. To view a map of the qualified census tract, simply click on its number. To view a map of an Indian Country area, or a former military base, click on its name.



Not Qualified

Qualified

Indian Country

BRAC Former Military Base

Difficult Development Area

Powered by Maptitude for the Web by Caliper

### BASIS OF HUBZONE DETERMINATION

Is the county located in a Metropolitan Area?

NO

County Income

\$36,227.00

State Income

\$37,090.33

Income Ratio

97.7%

Is this a qualified non-metropolitan county in which the median household income is less than the 80% of the non-metropolitan state median household income?

NO

SBA HUBZone Locator

<http://map.sba.gov/hubzone/hzqry.asp>

County Unemployment	8.7%
State Unemployment	6.5%
U.S. Unemployment	5.8%
Unemployment Ratio	150.0%

Is this a qualified non-metropolitan county in which the unemployment rate is not less than the 140% of the nationwide average unemployment rate? **YES**

If your firm's principal office is located in this area which is qualified as a HUBZone (Principal office means the location where the greatest number of the concern's employees at any one location perform their work., 13 CFR PART 126.103), you are encouraged to apply for the HUBZone Empowerment Contracting Program.

**You may apply now for HUBZone Certification**

Or enter an ADDRESS, TOWN or COUNTY to Search	
<b>Address</b> (include either City & State or ZIP Code - omit address to zoom map to a city or ZIP code area)	<b>County</b>
Street Address:	County: Crawford
City & State:	State: OH
ZIP Code:	
Search    Reset	Search    Reset

*Exhibit 11*

Ohio Farm Bureau Federation

2011 State Policies

1 (PUCO), incumbent utilities, service providers, pipeline companies, and interested  
2 community leaders to establish these systems.

3 We support net metering prices paid by utilities for on-site generation to reflect the  
4 cost of generation, value of renewable energy and value of local energy production.

## 6 **Biofuels**

**142**

7 We support the research, development and utilization of agricultural products to  
8 create both solid and liquid biofuels.

9 We encourage research regarding cellulosic ethanol production utilizing woody  
10 biomass, grasses, compost and other hydrocarbon-rich agricultural and food processing  
11 byproducts and/or residues.

12 We encourage expansion of liquid biofuels for use in the consumer market, as well as  
13 promotion of these energy sources as they enhance efforts for a cleaner environment and  
14 enhanced national security.

15 We support creation and use of solid biofuels to help Ohio-based utilities, energy  
16 service providers and industrial energy consumers combine the use of renewable  
17 resources with investments in clean coal and other advanced energy technologies.

18 We support construction and/or expansion of solid and liquid biofuel production  
19 facilities in Ohio. We encourage utilization of Ohio's expedited permitting process for  
20 advanced and renewable liquid fuel plants to include solid biofuel processing facilities.

21 We encourage the use of biofuels, at the highest percentage blend economically  
22 feasible, in all vehicles as distribution systems improve. We urge each Farm Bureau  
23 member to actively promote the use and marketing of ethanol enhanced gasoline and soy-  
24 biodiesel and continue support of an aggressive education campaign to promote the  
25 benefits of ethanol-blended gasoline and the differences between ethanol and methanol.

26 We urge the State of Ohio to give preference to bio-based fuels in any alternative  
27 fuels program.

28 We support the use of ethanol in coal desulfurization.

29 We support aggressive expansion of the Ohio Department of Development's biofuel  
30 utilization program to provide more resources helping fuel distributors and local retail  
31 outlets install more infrastructure and pumps to distribute E-85 and biodiesel to the  
32 public.

33 We encourage further research and development of uses of the by-products of biofuel  
34 production.

35 We encourage state and local government agencies to use alternative fuels and to  
36 purchase biofuel compliant vehicles.

## 38 **Wind**

**143**

39 We support Ohio Power Siting Board rules and regulations encouraging reasonable,  
40 landowner friendly, uniform statewide regulations and guidelines pertaining to the siting,  
41 placement, construction and operation of utility-scale wind farms.

42 We encourage continued research and development in wind generation technology  
43 and expansion of Ohio Department of Development efforts to help Ohio-based  
44 companies participate in supply chain programs to manufacture wind turbine parts.



## Ohio Farm Bureau Federation

## 2011 State Policies

We encourage increased cooperation between state and federal agencies in minimizing and/or preventing delays in approval and construction of wind turbine projects due to the concerns for migratory birds, bats or other wildlife.

We support education and outreach activities for local government leaders and community planners as they work to create county, municipal and township zoning ordinances supporting use of on-site wind turbine technology for farm, business and home use.

**Methane****144**

We support and promote the use of methane gas, generated or collected from anaerobic digesters, bioreactors, landfills and/or abandoned coal mines, as a renewable energy resource.

**On-Site Generation****145**

We support incorporation of an option for on-site generation facilities using wind, solar and/or other renewable energy technologies into construction plans for school and local government facilities.

**Climate Change****146**

Ohio agricultural and silvicultural industries recognize that they have an important role to play in the mitigation of greenhouse gas emission. State climate change policy should incorporate the following principles:

1. Flexible, market-based incentives using soil carbon sequestration and carbon credit trading;
2. Farmers not subjected to economic disadvantages that dramatically increase the cost of production inputs such as fuel, fertilizer, agriculture chemicals and other farm inputs;
3. Rules, regulations and procedures associated with such programs are based on sound science; and
4. Program objectives consider the viewpoints and concerns of all stakeholders.

**LABOR****Labor Legislation****151**

We support state legislation to protect the rights of workers, farmers, and consumers during labor disputes.

**Migrant Housing****152**

We support the clarification that migrant housing is exempt from local zoning regulations.

We support working with the Ohio Department of Health to create an expedited process ensuring timely migrant labor camp inspections with licenses being issued for occupancy, better consistency of inspection process, and relief from unreasonable hot water requirements.

We encourage the U.S. Department of Labor to approve the Ohio Department of Health as the housing inspection agency for the H-2A program in Ohio.

Ohio Farm Bureau Federation

2011 State Policies

**SECTION 4: PROPERTY RIGHTS & TAXES****INDEMNITY****Indemnification****401**

We support the continuation of the Ohio Department of Agriculture's indemnification program for losses of agricultural products when products are impounded, farms are quarantined, or movement or sales are restricted in the public's interest. Farmers should be promptly and fairly compensated. Farmers should not be held responsible for conditions beyond their control. We support that indemnification programs be fully funded.

Ohio Farm Bureau should conduct a study to determine the available methods of protecting farmers who prepay for crop and farm inputs.

Since the indemnification fund is paid for by farmers, it should only be used to protect farmer losses.

**Dog Laws and Livestock Indemnity Claims****402**

We encourage member Farm Bureaus to work with their county government to promote better understanding and emphasize enforcement of Ohio's dog law. The law provides for indemnity for both dog damage and coyote kills and we support the continuation of this indemnity. We urge close cooperation between dog wardens and wildlife officers in processing coyote indemnity claims. The indemnity should be adequate to replace the loss with a similar commercial animal of like breeding, age, and condition.

We urge livestock farmers to carry adequate insurance to cover loss of unusually valuable animals.

We support financial incentive programs focusing on the prevention of animal control problems rather than their effects.

We support county dog wardens recognizing milk, meat, or fiber producing exotic animals as livestock when paying indemnity claims.

We support the development of a mandatory credible training program for all animal control officers that specializes in dog laws, the identification of damage inflicted by wildlife and domestic animals to livestock, and clearly determines what constitutes animal abuse, neglect and cruelty.

**PROPERTY RIGHTS AND RESPONSIBILITIES****Eminent Domain****411**

We oppose government entities taking prime farmland for public purposes, including but not limited to public water supplies, public utility pipelines, highways, metropolitan parks, linear parks, wildlife areas and trails. Where such facilities are needed for the public welfare, the government entity should:

1. Purchase land areas from willing sellers when possible;
2. Assume all legal responsibilities and tax obligations for the property acquired by eminent domain, for example CAUV recoupment;

## Ohio Farm Bureau Federation

## 2011 State Policies

- 1 3. Compensate farmers and other landowners for property taken, and right of
- 2 ways/easements, inconvenience suffered, and for damage that may occur to them
- 3 and to nearby property owners;
- 4 4. Determination of compensation should be made prior to project initiation, except
- 5 for true cases of public exigency;
- 6 5. Limit wellhead protection requirements to real case scenarios - for example, light
- 7 sandy soils;
- 8 6. Pay for capital costs caused by wellhead protection ordinances;
- 9 7. Replace water supplies at no cost to the landowner for as long as the landowner
- 10 has a need for water; and
- 11 8. Mitigate adverse effects to adjoining property owners for any facility that may be
- 12 developed.

13 The condemning agency should first establish the need for the project by using  
14 cost/benefit analysis, and availability of capital funds for the project. Funds should be  
15 made available to the landowner for an appeal process before condemning the land. All  
16 necessary economic impact studies and environmental impact studies, etc. should be  
17 completed prior to initiating condemnation. Any damage occurring should be reimbursed  
18 to the landowner.

19 Ohio should broaden its definition of 'public notice' for ODOT construction projects  
20 to facilitate as much local input as practicable.

21 When the state publicly identifies a corridor for a projected state highway project, all  
22 the land in that corridor must be purchased within three years of identification of the  
23 corridor or, if not, all the restrictions on the property should expire. If a proposed project  
24 is delayed for a period of 18 months or more, the landowner should be compensated 10  
25 percent of the fair market value of the land.

26 We believe municipalities should be limited in their use of condemnation proceedings  
27 to secure land and facilities outside of the municipal corporation.

28 We oppose the practice of eminent domain for private development purposes.

29 We believe government entities should compensate original landowners for loss of  
30 use of their land and for any profits realized on resale of land taken by eminent domain.  
31 Landowners of property taken by eminent domain should be compensated at prevailing  
32 market rates, including best alternate uses, established before the threat of eminent  
33 domain is publicly known.

34 Metropolitan parks and/or park districts have the power of eminent domain. We  
35 oppose the use of eminent domain for recreational purposes. If eminent domain is to be  
36 used outside the "base county" of the metro park and/or park district, the county  
37 commissioners in that outside county must approve the eminent domain action.

38 We support a constitutional amendment to allow incorporated municipalities to have  
39 the same authority as counties and townships to define a blighted area.

40 We support legislation that allows conservation easements to super cede eminent  
41 domain.

42 Ohio's quick take statute should be amended to limit the government's right of quick  
43 take to emergency actions only.

44

## Ohio Farm Bureau Federation

## 2011 State Policies

2. The adoption of legislation that requires the trail developer to maintain fences, provide drainage, and control weeds as required of railroads in Chapter 4549 of the Ohio Revised Code. Between the time of abandonment of the railroad line and construction of the trail, the adjoining landowner should be allowed to use the abandoned railroad easement;
  3. The adoption of legislation that requires that the integrity of the location of the railroad line be maintained during development of the trail;
  4. Members to become active in local organizations involved in the planning, acquisition and management of bicycle, recreational, equine and greenway trails.
- We support class-action litigation filed on behalf of landowners adjacent to abandoned railroad lines against railroads that have used the railroad lines for utility easements in contravention of the landowners' property rights.

**Utility Easements****414**

In order to protect landowners' rights and preserve important farmland, we urge that utility easements follow existing corridors whenever possible.

Landowners or tenants should not be liable for any damage to underground or above ground utilities that arise from normal farming practices.

Utilities should be responsible for damages occurring on landowners' property including tile. We support legislation that would require public or private utility companies to post a monetary bond or a cash deposit with the county before they are allowed to install underground utility lines in the county to pay for right-of-way restoration (i.e. tile, driveways, grade, etc.) Property damaged by the utility should be repaired to original condition.

We recommend that all new buried utility lines be located at a minimum depth of 5 feet, or a mutually agreed upon depth, and that the property owner be notified five days prior to actual installation.

We urge open dialogue between local public utilities, community leaders, businesses, interstate pipeline companies and government agencies to ensure the proper planning and development of local and interstate pipeline to serve growing communities.

Approval by the appropriate local political subdivision should be required before a rural utility service can assess individual property owners.

When a public utility plans to construct a utility and needs to procure easements and/or utilize existing easements, said public utility shall notify the affected landowner by certified mail no later than 30 days prior to the date of the first public hearing.

Any proposed pipeline project must address the real need and the real environmental issues, including but not limited to: disturbance of watersheds; tillage and drainage systems; crop production loss; safety due to proximity of homes and buildings; and devaluation of property values. In the event the pipeline is approved, the pipeline company should be required to follow the agricultural mitigation provisions prepared by the Ohio Federation of Soil and Water Conservation Districts. This requirement and other restrictions should be clearly stated in an easement agreement between the pipeline company and the landowners.

We oppose broader interpretation of existing right-of-way easements that allows utilities to expand their access.

## Ohio Farm Bureau Federation

## 2011 State Policies

1 When the original use of a utility easement is completed, the law should allow for the  
2 easement to be cancelled with proper notice and process.

3  
4 **Property Ownership Responsibility** 415

5 Public landowners of real property including ODNR and other state government  
6 agencies should be held to the same responsibilities, rules and laws as private  
7 landowners.

8 We encourage the development and distribution of educational materials regarding  
9 the responsibilities of property owners relative to line fences, surface and sub-surface  
10 drainage, CAUV, Agriculture Districts, farm odors, dust, noise, use of roadway by farm  
11 equipment and other good rural neighbor policies and customs. Such materials should be  
12 distributed to all property buyers in cooperation with local realtors, lenders, county  
13 recorder's office and the Farm Bureau.

14 We support notification of change in property lines under new surveys.

15  
16 **Drainage** 416

17 We support Ohio's drainage law and will work with the local Soil and Water  
18 Conservation Districts to inform farmers of its benefits. We urge county governments to  
19 keep agricultural interests at the forefront in considering any drainage projects, and to  
20 consider the economic loss to farmers when drainage ditches are not cleaned and  
21 maintained.

22 We believe it is a fundamental right of all farmers to improve their lands for crop  
23 production. In order to ensure that this right is not taken away, we recommend that the  
24 current drainage law be comprehensively reviewed and amended to address the following  
25 concerns:

- 26 1. Require county government to clean or establish a drainageway system to ensure  
27 roadway waters and their associated pollutants and biohazards are directed away  
28 from agricultural commodities that may be affected;
- 29 2. Require a neighboring property owner, public utility or highway to provide access  
30 to subsurface drainage outlets in accordance with Natural Resources Conservation  
31 Service (NRCS) recommendations;
- 32 3. Require governmental authorities granting building permits and private entities  
33 developing land should analyze the impact on neighboring property owners;
- 34 4. Require the installation of drainage facilities which meet Natural Resources  
35 Conservation Service guidelines and which minimize the adverse impact on  
36 neighboring property;
- 37 5. Provide the opportunity for property owners to collect compensation (plus  
38 attorney fees and costs of the lawsuit) for damages caused by an increase in the  
39 flow of surface water or a change in the drainage pattern from a neighboring  
40 property;
- 41 6. Prohibit all development (residential, commercial, industrial, etc.) and any  
42 developers from adding more flow to agricultural land drainage systems without  
43 paying for needed improvements and long-term maintenance fees;
- 44 7. Protect and prevent the destruction of existing underground drainage systems and  
45 require those responsible for the damage of tile lines to repair lines and pay  
46 damages;

## Ohio Farm Bureau Federation

## 2011 State Policies

- 1 8. Establish a program to mark/record tile placement; and
- 2 9. Enable county subdivision regulations to require drainage access for new lot
- 3 splits.
- 4 We recommend farmers use cooperative agreements on ditches whenever possible.
- 5 Any easement taken for drainage improvements shall be strictly limited to drainage
- 6 improvements and maintenance and no other purposes.
- 7 When a majority of landowners agree to a drainage improvement, whether voluntary
- 8 or statutory, we oppose county commissioners, county engineers, soil and water districts,
- 9 or any other agency from securing or obtaining permanent easements to be placed over
- 10 drainage systems when doing conservation works or improvements.
- 11 We believe that a ditch survey, conducted by the Soil and Water Conservation
- 12 District or the county engineer, should be accepted by either party in the event a ditch
- 13 project moves from one jurisdiction to the other, whether a cooperative or petition ditch.
- 14 Cost sharing should be available for all open and subsurface drainage practices when
- 15 such practices will control soil erosion.
- 16 We encourage state, county, and municipal engineers to work with property owners
- 17 and soil and water conservation people where road drainage ties in with farm drainage.
- 18 We recommend that all units of government be required to maintain ditches and tile
- 19 on their property, which drains the land of adjacent property owners.
- 20 We support establishing a universally recognized sign to mark tiles at road crossings
- 21 and property boundaries. Placement of signs would be at the landowner's expense and
- 22 option.
- 23 Landowners should be notified when maintained drainageway maintenance is going
- 24 to occur. We encourage landowners to mark tile outlets in ditches to avoid damage by
- 25 mowers. Individuals, utilities, and/or government agencies responsible for destroying
- 26 marked tiles would be liable for restoration under National Resources Conservation
- 27 Service supervision.
- 28 We recommend that programs be developed to educate landowners about drainage
- 29 laws through real estate transactions.
- 30 Whenever the state or county highway departments replace a culvert or small bridge
- 31 over a dry run, the subsurface farm drainage tile that crosses under the highway at the
- 32 same location should also be included in the project. Such tile should be replaced with
- 33 highway grade tubing or concrete culvert. The length of the replacement should be the
- 34 greater of the highway right of way or the project area.
- 35 All maintained drainageways, county maintained or otherwise, should be classified as
- 36 "modified" or "historically channelized" maintained drainageways to retain their purpose
- 37 of farm drainage and not be considered a navigable waterway subject to biological and
- 38 recreational use designations.
- 39 We strongly encourage every county government to timely adopt effective
- 40 countywide drainage regulations.
- 41 We support the ODNR Division of Soil and Water in its efforts to meet Ohio's rural
- 42 drainage challenges. This is an organized effort which consists of two parts: (1)
- 43 Analyzing Ohio's drainage infrastructure needs and solutions, and (2) Development of
- 44 "Maintained Drainageway" Best Management Practice (BMP) Manual for maintenance
- 45 and construction.

## Ohio Farm Bureau Federation

## 2011 State Policies

1 We support increased adoption of innovative ditch geometry practices and the  
2 provision of incentives to adopt such practices.

3 We support a better method to quantify the costs and benefits of a maintained  
4 drainageway in the petition ditch law.

5 Ohio has an aging rural drainage infrastructure that is in need of repair. To address  
6 this need, we support the establishment of a county drainage rotary loan fund to provide  
7 counties the opportunity to manage drainage improvement projects. The initial  
8 capitalization of the drainage rotary fund should be based upon an assessment of 50 cents  
9 (\$.50) per acre enrolled in CAUV. Funds collected would be used to offset the cost of  
10 constructing the drainage improvement project and providing environmental  
11 improvement.

12 Sellers of land in amounts below 20 acres should be required to disclose drainage  
13 patterns and problems at the time of sale.

14

15 **Adverse Possession** 417

16 We support a change in the Ohio Revised Code that would require a person claiming  
17 land by adverse possession to prove that he/she paid the taxes on the disputed property  
18 during the time that he/she claims to have possessed the land adversely. This would be in  
19 addition to all other elements of title by adverse possession as required by law.

20 We support legislation that would more clearly define what constitutes adverse  
21 possession of land. We believe utilization of land across boundary lines for profit should  
22 not constitute adverse possession.

23

24 **Trespassing** 418

25 We will support legislation to increase criminal penalties and establish a mandatory  
26 fine and full restitution of property damaged by individuals found guilty of trespassing  
27 and unauthorized activities.

28 We support legislation to clearly spell out landowners' rights as they relate to  
29 trespassers and provide landowners immunity from civil liability in connection with  
30 injury, death or loss to trespassers.

31 We encourage local law enforcement to prosecute trespassers.

32 We support legislation that may provide for seizure of implements used in trespass,  
33 such as all-terrain vehicles, snowmobiles, and vehicles and for an allowance of the  
34 collection of damages that would be multiplied for remuneration.

35 We support legislation that strengthens "attractive nuisance laws" so as not to put  
36 landowners at risk for unreasonable lawsuits.

37 To perform a boundary survey, the surveyor should be able to enter adjacent private  
38 property as long as written notice is provided to adjacent landowners at least two days in  
39 advance and the surveyor pays for any damages caused on the adjacent properties.

40

41 **Cemeteries** 419

42 We support and encourage our members to continue preserving our agricultural  
43 heritage by respecting on farm cemeteries. We support the real property laws now in  
44 place, which keep a closed private cemetery where there have been no burials in 75 years  
45 the size and status it is today.



# ANNUAL MEMBERSHIP DUES INVOICE



CRAWFORD COUNTY FARM BUREAU  
1495 W. LONGVIEW AVE  
SUITE 203  
MANSFIELD, OH 44906  
(419) 747-7488  
(800) 327-6055  
crawford@ofbr.org

Date

11/12/2010

Member ID

[REDACTED]

This is your Ohio Farm Bureau annual membership renewal invoice. Complete and return to continue to support agricultural, legislative and promotional efforts that help local farmers thrive.

17\*\*\*\*\*AUTO\*\*3-DIGIT 448



MEG RIETSCHLIN  
4240 BAKER RD  
CRESTLINE OH 44827-9748

135408

Exhibit 12

5073

1

Farm Bureau Membership Dues  
Voluntary Contribution to the Agriculture for Good Government PAC\*

Total

\$70.00

~~\$2.00~~~~\$72.00~~

78.00

To pay online, go to <http://ofbr.org/renew>. For verification, you will need to use your previously established an ofbr.org login. If you have not yet established an ofbr.org login, you will need to use your member ID No. 1589612 and your zip code 44827

Remit payment to: P. O. Box 630746, Cincinnati, OH 45263-0746

Farm Bureau's legislative efforts cover a variety of issues, including private property rights, animal agriculture, water quality, energy, international trade, education reform, wildlife control and more





## MEMBERSHIP DUES NOTICE



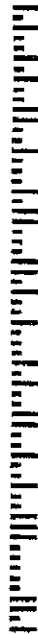
CRAWFORD COUNTY FARM BUREAU  
1495 W. LONGVIEW AVE  
SUITE 203  
MANSFIELD, OH 44906  
(419) 747-7488  
(800) 327-6055

Date

12/16/2008

Member ID

01589612



17\*\*\*\*\*AUTO\*\*3-DIGIT 448  
MEG RIETSCHLIN  
4240 BAKER RD  
CRESTLINE OH 44827-9748

81250

Your 2008 Farm Bureau membership will expire on 12/31/08.

**Your Farm Bureau membership expires December 31!** Be sure to renew now to continue to receive legislative representation, promotion of the agricultural industry to consumers, Accidental Death and Specific Loss coverage and dozens of savings!

### 1 Farm Bureau Membership Dues Voluntary Contribution to the Agriculture for Good Government PAC\*

Renewing now maintains your subscription to Buckeye Farm News newspaper and Our Ohio magazine, and provides you savings on goods and services such as:

- Nationwide Insurance product discounts
- Medical Mutual of Ohio's SuperMed One - Ohio Farm Bureau health plans
- Ohio Farm Bureau Distribution credit card featuring 20% cash back earned on select

	<b>\$70.00</b>
	<del><b>\$2.00</b></del>
<b>Total</b>	<b>\$72.00</b>



# ANNUAL MEMBERSHIP DUES INVOICE



CRAWFORD COUNTY FARM BUREAU  
1495 W. LONGVIEW AVE  
SUITE 203  
MANSFIELD, OH 44906  
(419) 747-7488  
(800) 327-6055  
crawford@ofbf.org

Date

12/18/2009

Member ID

1589612

17\*\*\*\*\*AUTO\*\*3-DIGIT 448

MEG RIETSCHLIN  
4240 BAKER RD  
CRESTLINE OH 44827-9748

85974

Your Farm Bureau membership  
expires 12-31-2009!

Be sure to renew now to continue to receive  
legislative representation, promotion of the  
agricultural industry to consumers, Accidental  
Death and Specific Loss coverage and dozens  
of savings!

1 Farm Bureau Membership Dues  
Voluntary Contribution to the Agriculture for Good Government PAC\*

Total

\$70.00

~~\$2.00~~

\$72.00

70

As you know, Farm Bureau helped pass state issue 2, which created the Ohio Livestock Care Standards Board. This 13-member board, including family farmers, veterinarians, local humane society representation, Ohio consumers, dean of an Ohio agriculture college and members from statewide farm organizations will set standards for livestock care in Ohio. Renewing your membership now will continue to protect local agriculture. And that's just the beginning.

- Your membership also provides:
- A subscription to Buckeye Farm News newspaper and Our Ohio magazine
  - Savings on Nationwide Insurance products and access to Medical Mutual of Ohio's SuperMed One - Ohio Farm Bureau health plans

\* Amount for Ohio Farm Bureau Distribution credit card facilities 70% each credit card and 30% each credit card on all other purchases

Exhibit 13



December 11, 2009

Margaret D. Rietschlin  
Nicholas A. Rietschlin  
Rietschlin Construction, Inc.  
4240 Baker Rd.  
Crestline, OH 44827

RE: [REDACTED] Operating Line of Credit

Dear Mrs. &amp; Mr. Rietschlin,

United Bank, N.A. (herein after known as "Lender") is pleased to extend a [REDACTED] operating line of credit to Rietschlin Construction, Inc. (herein after known as "Borrower") over the next twelve months.

<b>LENDER:</b>	United Bank, Division of the Park National Bank
<b>BORROWER:</b>	Rietschlin Construction, Inc. By: Margaret D. Rietschlin, President By: Nicholas A. Rietschlin
<b>GUARANTORS:</b>	Margaret D. & Nicholas A. Rietschlin
<b>PURPOSE:</b>	To obtain a [REDACTED] operating line of credit.
<b>LOAN AMOUNT:</b>	[REDACTED]
<b>FINANCING TERM:</b>	12 months
<b>INTEREST RATE:</b>	The interest rate will float daily at Wall Street Journal New York Prime plus 100 basis points.
<b>INTERST RATE FLOOR:</b>	5.50%
<b>REPAYMENT TERMS:</b>	Interest only payments monthly with all remaining principal interest due at maturity.

Main Office

401 S. Sandusky Ave.  
P.O. Box 568  
Bucyrus, Ohio 44820  
(419) 562-3040  
1-800-589-3040  
Fax (419) 562-7372

Galion Office

8 Public Square  
P.O. Box 601  
Galion, Ohio 44833  
(419) 468-2231  
1-800-448-9010  
Fax (419) 468-2576

Crestline Office

245 N. Selzer St.  
P.O. Box 186  
Crestline, Ohio 44827  
(419) 683-1010  
Fax (419) 683-1023

Marion Office

685 Delaware Ave., Suite 115  
Marion, Ohio 43302  
(740) 383-3355  
1-888-448-9010  
Fax (740) 383-4775

Marion Wal-Mart

Supercenter Office  
1546 Marion-Mount Gilead Rd.  
P.O. Box 2569  
Marion, Ohio 43301-2569  
(740) 389-2224  
1-888-589-3040  
Fax (740) 389-1038

Waldo Office

133 N. Marion St.  
P.O. Box 283  
Waldo, Ohio 43356  
(740) 726-2108  
Fax (740) 726-2358

Prospect Office

105 N. Main St.  
Prospect, Ohio 43342  
(740) 494-2131  
Fax (740) 494-2797

Caladonia Office

140 E. Marion St.  
P.O. Box 295  
Caladonia, Ohio 43314  
(419) 845-2721  
Fax (419) 845-3068

Telebanc (419) 562-4359  
1-866-551-5558

[www.unitedbankna.com](http://www.unitedbankna.com)



**TRANSACTION EXPENSES  
TO BE PAID BY BORROWER:**

1. United Bank's origination fee equal to \$500.
2. Other transaction expenses, including but not limited to, title insurance, appraisal, flood determination, EPA assessments, etc. if required.\*

(\*Note: These fees and expenses are neither established at this time nor controlled by United Bank. Transaction expenses may be included in the financing up to the applicable regulatory limits.)

**PREPAYMENT PENALTY:**

There is no prepayment penalty.

**MAINTENANCE AND  
INSURANCE:**

All maintenance, costs of operation, and insurance costs are the responsibility of Borrower. Borrower shall keep the collateral in good repair and operating condition. Borrower shall bear all risk of loss or damage to the property and shall be responsible for keeping the property insured with companies satisfactory to Lender and for such amounts as required by Lender.

**COLLATERAL:**

Rietschlin Construction, Inc. will grant to Lender a security interest in all accounts receivable, inventory, equipment, furniture, fixtures, general intangibles, etc. now owned or herein after acquired. Nicholas A. Rietschlin will grant to Lender a collateral assignment on a life insurance policy in the amount of \$100,000. Margaret D. Rietschlin & Nicholas A. Rietschlin will grant to Lender a mortgage on their personal residence located at 4240 Baker Rd. Crestline, OH 44827.

**REQUIREMENTS PRIOR TO CLOSING AND BORROWER'S  
CONTINUING REQUIREMENTS:****PROPERTY INSURANCE:**

Hazard, fire and extended coverage insurance, including vandalism and malicious mischief in the amount and form and from a company satisfactory to Lender, which insurance shall be payable to Borrower with standard mortgage endorsement attached making loss payable to "United Bank, Division of the Park National Bank its successors and/or assigns."

**CONDITIONS:**

Prior to closing Borrower will open and maintain all deposit accounts, cash management services, all other ancillary deposit services with Lender.

Prior to closing Guarantors will open and maintain all deposit accounts and ancillary deposit services with Lender.

**COVENANTS:**

- Borrower will provide complete federal income tax returns by January 31st, annually.
- Borrower will provide Lender with internally prepared monthly balance sheet and income statement. The financial statements will be submitted to Lender on or before the 15<sup>th</sup> of the month following the previous month end.
- By the 15<sup>th</sup> of each month, Borrower will provide Lender with monthly Aging of Accounts Receivable and Accounts Payables accompanied by a completed borrowing base certificate (see attached.) The aggregate of advances outstanding at any given time on the line of credit shall not exceed the sum of 75% of Eligible Accounts Receivable, 50% of Qualified Inventory and the equity available in the personal residence of Margaret D. & Nicholas A. Rietschlin. Eligible Accounts Receivable are defined as those receivables less than 90 days past due and do not include extensions of credit to employees, stockholders, their family members or any business entity of which any employee or stockholder holds a financial interest. Qualified Inventory includes all raw materials, work-in-process, and finished goods. Available equity in the personal residence is yet to be determined by a professional appraisal and the current balance owed on the property.
- A corporate resolution authorizing the individuals by name and corporate title authorized to commit Rietschlin Construction, Inc. to pledge assets and enter into a loan agreement.
- From the inception of the line of credit until maturity, the line of credit must be rested for a period of 30 consecutive days.

This commitment is subject to receipt by Lender of evidence satisfactory to it in its sole discretion, that there has been no unremedied adverse change in the financial condition of the Borrower, since the date of Application to Lender. This commitment is subject to the actual loan documents and proper and legal execution of those documents prior to first disbursement of this loan.



By executing this commitment Borrower warrants that no other financing commitments or loan documents have been executed other than those that have been disclosed by Borrower to Lender in the Application and other documents.

CERTIFICATE AS TO INVENTORY AND ACCOUNTS  
RECEIVABLE UNDER SECURITY AGREEMENT DATED  
*January 15, 2010*

TO: United Bank, Division of The Park National Bank

The undersigned is the Borrower under the above Security Agreement (herein called the "Agreement") between the undersigned and your Bank. All terms used herein, which are defined in the Agreement, shall have the same meaning herein as in the Agreement.

Borrower hereby reaffirms all warranties made in the Agreement and certifies and warrants that Borrower holds subject to the security interest of the Bank under the Agreement the following Collateral (all Inventory being shown at the lower of cost or market value) computed as of \_\_\_\_\_, 20\_\_\_\_.

- |  |          |   |
|--|----------|---|
| 1. Real Estate Market Value  |          |  |
| 2. All Accounts Receivable   | \$ _____ |   |
| 3. Less Ineligible Receivables<br>(over 90 days)   | \$ _____ |   |
| 4. Eligible Receivables<br>(under 90 days)   | \$ _____ |   |
| 5. 75% of Line 1   | \$ _____ |   |
| 6. 75% of Line 4   | \$ _____ |   |
| 7. Collateral Available for Loans<br>The lesser of  or (Lines 5 + 6): | \$ _____ |   |
| 8. Present Loan Balance  | \$ _____ |   |
| 9. Loan Commitment Available (Line 7 - 8)  | \$ _____ |   |
| 10. Advance Requested herein   | \$ _____ |   |

\*\*\*Line 8 may not exceed Line 7.

Borrower further certifies and warrants that no Default is existing at the date of this Certificate, and, to the best of the knowledge and belief of the officer of Borrower executing this Certificate, there has not been (except as may be otherwise indicate below) any change since the computation date specified above which would materially reduce the amounts shown above if such amounts were computed as of the date of this Certificate.

\_\_\_\_\_  
Borrower

\_\_\_\_\_, 20\_\_\_\_  
Date Prepared

By \_\_\_\_\_  
Title