

September 2, 2011

Ms. Maria Otero, Undersecretary for Democracy and Global Affairs
United States Department of State
2201 C Street NW
Washington, DC 20520

Dear Undersecretary Otero:

Next June, the nations of the world will meet in Rio de Janeiro to decide on how best to move toward sustainable development. As we take stock of our progress in achieving the goals we set forward in the 1992 Rio Declaration and establishing a way forward we wish to draw your attention to Principle 10 of the Declaration, signed and promoted by our government. Principle 10, the "Environmental Democracy Principle," recognizes that environmental issues are best handled with the participation of all stakeholders and with access to information, the opportunity to participate, and access to justice.

The upcoming World Summit for Sustainable Development in Rio presents a tremendous opportunity for us not only to take stock of the progress we have made, but also to publicly demonstrate the continued commitment of the United States to improve environmental democracy. The timing of the World Summit is fortuitous as it coincides with the Open Government Partnership and the many recent strides forward taken by agencies as part of the Obama administration's Open Government Directive. We see the World Summit as a major opportunity for the United States to renew its domestic commitment to improving access to information, public participation, and access to justice.

In this context, the undersigned organizations wish to bring your attention to the following "Three Demands," which outline areas where the U.S. government can take next steps to better fulfill the promise of Principle 10.

- Initiate a federal process to review and evaluate environmental and public health information holdings across major agencies.
- Commit and work with federal agencies and stakeholders to identify and adopt a set of best practices on public participation for agencies to follow. Once developed, these documents and web-based information services should be made publicly available by posting on agency websites, Regulations.gov, and any other venue that will promote widespread availability of the information.
- Direct federal agencies to take specific actions to develop and implement a new component of their open government plans that focuses on the different priorities for regional and state offices. The new plan components should establish the most important open government issue and set specific goals for the region or state, complete with milestones and deadlines.

We have attached descriptions of each demand. We look forward to working with your office and other offices and agencies to discuss these requests. At the same time, this is part of similar efforts being carried out in several dozen countries worldwide. Please do not hesitate to contact Joseph Foti (jfoti@wri.org) and Sofia Plagakis (splagakis@ombwatch.org) to discuss next steps in moving forward with these three demands.

Sincerely,

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National Lawyers Guild, Environmental
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Essential Information
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National Lawyers Guild, Environmental
Justice Committee
New York, NY

Galveston Baykeeper
Seabrook, TX

New Jersey Work Environment Council
Trenton, NJ

New York Committee for Occupational
Safety and Health
New York, NY

New York Environmental Law and Justice
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Powder River Basin Resource Council
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Progressive Librarians Guild
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Public Citizen
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Science & Environmental Health Network
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Spring Valley Concerned Citizens
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Texas Environmental Justice Advocacy
Services (t.e.j.a.s.)
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Washington Coalition for Open
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Wyoming Outdoor Council
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Attached: United States Commitments to Principle 10 for Rio+20

CC:

Steve Croley, Special Assistant to the President and Senior Counsel to the President, Office of White House Counsel

Michael Fitzpatrick, Associate Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA)

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Kenli Schaaf, Deputy Associate Director for Policy Outreach, Executive Office of the President, Council on Environmental Quality

Chris Vein, Deputy United States Chief Technology Officer for Government Innovation at Office of Science and Technology Policy, Executive Office of the President

Steve Wolfson, Senior Attorney with the EPA Office of General Counsel and Co-Coordinator, EPA International Environmental Law and Enforcement Training Team

ATTACHMENT: UNITED STATES COMMITMENTS TO PRINCIPLE 10 FOR RIO+20

1. Initiate a federal process to review and evaluate environmental and public health information holdings across major agencies. The process should identify untapped resources, information that should be shared more broadly, needed data quality improvements, and data gaps that require increased collection of information. Identify a common platform and format compatible with federal agencies and user friendly to stakeholders. Adopt this platform to include all relevant data collected.
2. Commit and work with federal agencies and stakeholders to identify and adopt a set of best practices on public participation for agencies to follow. Once developed, these documents and web-based information services should be made publicly available by posting on agency websites, Regulations.gov, and any other venue that will promote widespread availability of the information.
3. Direct federal agencies to take specific actions to develop and implement a new component of their open government plans that focuses on the different priorities for regional and state offices. The new plan components should establish the most important open government issue and set specific goals for the region or state, complete with milestones and deadlines.

Demand 1:

Initiate a federal process to review and evaluate environmental and public health information holdings across major agencies. The process should identify untapped resources, information that should be shared more broadly, needed data quality improvements, and data gaps that require increased collection of information. Identify a common platform and format compatible with federal agencies and user friendly to stakeholders. Adopt this platform to include all relevant data collected.

Problem:

The government collects and maintains massive amounts of information on the environment and public health. Yet despite notable projects to improve transparency and accountability over the past few years, the public often cannot access vital information. Without this information, Americans are less able to protect themselves, their families, and their communities from environmental harm. In addition to problems with accessing such information, agencies often fail to do enough to explain the complex data that is disclosed, often leaving citizens more confused than empowered.

Solution:

Addressing this information shortfall requires not just increased disclosure of public health and environmental data, but also the development of tools to assist the public in understanding and making use of the information. Such improvements are needed to identify and understand a wide spectrum of issues, from potential health hazards posed by the tens of thousands of chemicals in commerce, to improved monitoring of pollution, to filling the huge data gaps in our climate policies.

Agencies must improve the information being made available to the public by identifying and addressing data quality problems and filling gaps in data collection that prevent a fuller understanding of environmental and public health issues. Agencies must also employ a variety of ways to communicate and provide information to the public. Information must be broadly accessible throughout society and available in multiple formats to ensure equitable access.

As part of this federal review and evaluation process, agencies should use innovative tools, methods, and systems to collaborate among themselves, across all levels of government, and with the public. They should also solicit public feedback to assess and improve data quality, access as well as the collaboration process itself.

More specifically, agencies should:

- **Identify stakeholders.** Develop systematic methods for identifying stakeholders and establishing communications.
- **Use new technologies and communication tools.** Exploit the use of online technologies to collect, analyze, and communicate information crucial to protecting environmental and public health.
- **Employ offline tools.** Identify and use all traditional means available, including offline methods.

- **Provide information in easy-to-understand language.** Provide information in plain, easy-to-understand language and methods, such as ratings or scores, that concisely interprets scientific, technological, legal, and bureaucratic language.

Demand 2:

Commit and work with federal agencies and stakeholders to identify and adopt a set of best practices on public participation for agencies to follow. Once developed, these documents and web-based information services should be made publicly available by posting on agency websites, Regulations.gov, and any other venue that will promote widespread availability of the information.

Problem:

Active public engagement in the policymaking process can improve policy outcomes while building trust in government – two consequences that make government more effective, efficient, and hopefully more rewarding for our public servants. Public participation practices have made great strides over the last several years with the Open Government Directive, presumption of disclosure, and implementation of e-government tools such as Regulations.gov. However, the quality of public participation efforts by different agencies varies widely. In other cases, it is not clear how public input will affect the design or selection of various alternatives.

Congress and agencies have developed clear standards for the implementation of public participation in various laws and regulations, including the National Environmental Policy Act and Administrative Procedure Act. However, in cases where statute does not require federal actions to include public participation processes, such as planning and program design, public involvement is often overlooked. In such cases, guidance can help agency staff to ensure adequate and fair public input.

In other cases, there is adequate opportunity for public participation, but it is unclear how the public might influence a decision making process. For instance, timely information on the process may not be available; participation may occur after options have already been narrowed; or there may be no official response to public input. Accountability for the quality of public participation efforts is often weak, absent the right to sue. Other, less conflict-oriented alternatives are available.

Finally, improved participation is critical to principles of environmental justice, which require the “meaningful involvement” of affected communities. Agencies should proactively engage vulnerable communities in a manner above and beyond existing environmental statutes.

Solution:

As part of the United States government's public commitments in Rio 2012, the White House should establish an interagency task force to gather and centralize best practices for public participation. This work would build off of the successes and innovations of the Open Government Initiative.

Such a task force should include historically low-performing agencies (with regard to public participation) and agencies with a record of high levels of public engagement. The task force could consider as a set of deliverables:

- Model community engagement plans, including systems for annual public evaluations of agency progress.
- Model guidelines for community partnerships.
- Guidance on communicating with EJ communities. Agencies should coordinate to identify successful methods of outreach to environmental justice communities.
- Standards for accommodating public participation in hearings, meetings, forums, listening sessions, and other events.

Markers of good participation should also be evaluated, including:

- Timing and location of participation events (to accommodate work schedules).
- Multiple mechanisms for public input into agency goals.
- Transparent and timely notification of meetings through channels in addition to the *Federal Register* (e.g., local print media, websites, through local organizations).
- Accessible supporting materials in appropriate formats and languages for community members.
- Availability of translation services where appropriate.
- Transcription and publication of public commentary in the corresponding docket
- A rigorous process of stakeholder identification with publicly available records of outreach efforts.
- Use of new online technologies to increase participation.

Demand 3:

Direct federal agencies to take specific actions to develop and implement a new component of their open government plans that focuses on the different priorities for regional and state offices. The new plan components should establish the most important open government issue and set specific goals for the region or state, complete with milestones and deadlines.

Problem:

Different regions around the country face different environmental and public health challenges, and therefore, their information needs will substantially differ. While national improvements in transparency and participation are welcome, they often fail to be specific enough to adequately address local and regional concerns. Also, implementation of information access policies is inconsistent across regional and state offices. Without federal action to deliver consistent implementation, the improvements made at the national level will be unavailable to some.

Solution:

The federal government should serve as a leader on information access issues and actively collaborate across and at all agency levels to improve transparency and community engagement. At a minimum, federal agencies must develop clearly articulated and enforceable strategies for implementing information access policies and capacity-building resources to regional and state offices.

In developing and implementing open government plans for regional and state offices, federal agencies should:

- **Build information capacity at regional and state agencies.** The federal government should work with state agencies to develop capacity to expand electronic reporting, document digitization, and other data access improvements. Federal agencies should also offer training and best practices advice to regional and state-level counterparts.
- **Establish policies and mechanisms for community engagement.** Federal agencies should coordinate with regional and state offices to identify successful methods of outreach to environmental justice communities and to establish policies for substantive community engagement in government decision making.
- **Set minimum standards for public participation in meetings.** Federal agencies should assist regional and state offices in developing clear standards for accommodating public participation in public hearings, meetings, forums, listening sessions, and other events.