

## **Exhibit 3**

August 10, 2012

Honorable Bob Martin, Commissioner  
NJ Department of Environmental Protection  
401 East State Street, P.O. Box 402  
Trenton, New Jersey 08625

Dear Commissioner Martin:

Please accept the following comments in response to the Hess Corporation's Newark Energy Center permit application to your agency. As you know, the Ironbound Community is a 43 year old community based non-profit in the Ironbound community of Newark, NJ. Every day we provide services for more than 700 children and families. Being well familiar with their needs and the needs of our community, we also work with residents to improve the quality of life in our community, including environmental conditions that impact public health.

We are strong advocates for environmental justice for all residents. The Ironbound is recognized as an environmental justice community, being over burdened by multiple sources and types of pollution and contamination. For more than 30 years, ICC, together with residents, has worked to mitigate these conditions and build a healthier community with proper zoning, new parks, sustainable development, and the like.

The following comments detail our agency's opposition to the proposed 655 MW power plant which Hess proposes to construct and operate in the Ironbound section of Newark. Our deep concerns with respect to this permit application revolve around issues of Environmental Justice. Regardless of the assessment of the singular value or necessity of this facility, within the context of our community this facility definitively poses an additional pollution burden on our already overburdened environment and public health. Despite years of discussions, EJ policies, and studies from your agency, all confirming the fact that our community is in fact overburdened and vulnerable, we still find ourselves another very large, polluting facility permit.

We further would like to raise the issue that our organization and many community residents attempted to meaningfully participate and weigh in early on this issue by testifying at the State's Energy Master Plan hearings and submitting formal comments in opposition to the siting of this natural gas plant. Yet, these attempts at early participation went without response and apparently with very little regard given to our participation, particularly during the public hearing sessions in which residents' were denied or limited in their ability to speak. Another opportunity to engage in meaningful participation was again denied when the request from the New Jersey Environmental Justice Alliance and ICC for an extended 90 day comment period was denied. Extending the comment period for only another 15 days ensured that the entire hearing and comment period was conducted in the dead of summer when many residents, parents and families are on vacation or unavailable to participate fully in the discussions around this facility. While the applicant took many months to prepare and go back and forth with your agency to review every detail of this very complex and extensive permit, our residents and organizations were allowed only 45 days to review and prepare comments. This facility will have a presence in our community for generations and we were not afforded the courtesy of two or three months to review a permit which seemed to be approved before



**Ironbound**  
COMMUNITY CORPORATION

**Administration &  
Community Organizing**  
179 Van Buren Street  
Newark, NJ 07105  
973.589.3353  
fax 973.589.3637  
www.ironboundcc.org  
info@ironboundcc.org

**Children's Center**  
1 New York Avenue  
Newark, NJ 07105  
973.589.6873  
fax 973.589.2479

**Community Center**  
432 Lafayette Street  
Newark, NJ 07105  
973.465.0947  
fax 973.465-0275

**Family Success Center  
West**  
317 Elm Street  
Newark, NJ 07105  
973.465.0555  
fax 973.589.9505

**Family Success Center  
East**  
29-31 Cortland Street  
Newark, NJ 07105  
973.344.5949  
fax 973.344.0397

**Early Head Start Center**  
St. Casmir's School  
380 E. Kinney St.  
Newark, NJ 07105  
973.466.3053  
fax 973.446.3190

it had even been released to the public. In fact, your own NJDEP representative was quoted in the Star Ledger in May before the permit was released for public comment extolling its value and importance to your agency: *"Our goal here is renewables and cleaner energy," Ragonese said. "This is exactly the type of facility we're looking to bring in to replace coal-burning fossil fuel plants."*

[http://www.nj.com/business/index.ssf/2012/05/hess\\_pitches\\_ironbound\\_natural.html](http://www.nj.com/business/index.ssf/2012/05/hess_pitches_ironbound_natural.html)

We hope that in the future there will be greater efforts made to ensure meaningful public participation as well as a regulatory mechanism that can take into account the cumulative and disproportionate burdens that a new permit application may have on EJ communities.

We respectfully submit the following detailed comments for the record in opposition to the permit application for the Newark Energy Center.

### **1. The placement of this new facility disregards cumulative impacts in an already over-burdened environmental justice community.**

The proposed Newark Energy Center poses an environmental injustice on our community. While natural gas plants claim to be a cleaner alternative to coal, this facility will nonetheless produce significant amounts of air pollution and will operate alongside existing power plants. Much like the coal plants, they will continue to operate decades into future. The Ironbound community and the Doremus Avenue corridor, which is the site of the proposed plant, has several dozen major air polluting facilities that together report more than 1 million pounds of air toxics annually under the US EPA's Toxic Release Inventory. Environmental justice communities like the Ironbound suffer disproportionately from cumulative pollution sources, and this facility will add to an already significant air quality burden. Additionally, the proposed plant is located less than half a mile from Essex County correctional facility that houses thousands as well as an immigration detention facility with an additional 2,500 people, including families.

The facility will emit upwards of 1.5 million pounds of air pollutants annually as well as millions of tons of CO<sub>2</sub>. Among the pollutants of concern are Particulate Matter (PM) as well as Nitrogen Oxide (NO<sub>x</sub>) and Volatile Organic Compounds, both of which are required to be offset. Hess NEC states in their application that the level of PM they will be emitting is 97.65 tons per year (tpy) which just narrowly falls under the 100 tpy threshold. We believe the modeling that the applicant conducted to show no significant impact for PM levels is flawed. They utilized air monitoring data from stations outside Newark which we believe does not accurately represent local air quality conditions. The applicant also did not take into account one of the greatest contributors to PM pollution in the Ironbound, diesel emissions from vehicles. Their models lacked important information about the tens of thousand of trucks and other transportation vehicles that pass daily through our neighborhood utilizing Doremus and Delaney Streets. The modeling does not reflect an accurate cumulative impact of existing sources and therefore cannot accurately portray the impact from their proposed facility. In addition to air pollutants like PM and VOCs, this plant will emit more than 2 million tons of CO<sub>2</sub> per year, contributing to climate change. The applicant's assertions of offsets from nearby coal power plants are based on economic models which are speculative in nature and hold no guarantees for the communities who will be impacted for decades to come.

During the Ironbound CARE Cumulative Impacts Project we had the opportunity to utilize the draft NJDEP cumulative impacts tool that clearly showed our community is overburdened, especially with respect to air pollution. We strongly urge the NJDEP immediately begin utilizing this existing tool in the permitting process to demonstrate the impacts of facilities proposing a new or renewed permit. We cannot continue to debate this issue for two more decades while the cumulative burdens in our community grow and public health and the environment are sacrificed. It is time to put all the EJ policies into real action if we are to ever achieve a modicum of environmental justice.

**2.The assertion of “net benefits” from a reduction in emissions from nearby older and “dirtier” facilities is speculative and offers no guarantees or possibility of enforcement in the decades to come.**

The development of this plant does not necessarily ensure the subsequent closure or replacement of the existing older, dirtier facilities in and around Newark. There are projections that there will be some displacement from the PSE&G coal plant in Jersey City and some potential reductions of air pollutants from nearby “peakers”, which, regardless of the Hess plant, will be adding additional controls or phasing out over the next couple of years. In order for this facility to achieve any displacement from Hudson coal plant, it is critical that the price of natural gas remain under \$4.50 MMBtu in the future. The applicant themselves stated in public meetings that there is no guarantee of what the demand for energy and the price of energy will look like in years to come; there is a possibility that the demand may grow so that all of these energy generating plants would be operating simultaneously to meet the burgeoning demand. If this scenario is realized, it will further exacerbate local air quality degradation as well as global warming.

The applicant should be required to demonstrate displacement and “net benefit” of emissions regionally if this claim is part of their overall appeal in contributing to the State Energy Plan’s objectives. An annual analysis of their net emissions should be conducted and if they are found to be net contributors then offsets should be required to lessen the local and regional air quality burden.

We further would like to see more direct and early coordination between state agencies funding, permitting and involved in any way with the proposed project. This facility was mentioned in the BPU’s earliest drafts of the State’s Energy Master Plan without any environmental or economic analysis of the viability and impacts of such a proposal. Our agency and many others made several futile attempts to participate in the BPU’s process to no avail. These large energy projects should be required to go through a more extensive public review process because their economic and environmental impacts will be felt for many decades on New Jersey.

**3.Hess NEC will not be purchasing any of their offsets from the community that is directly impacted.**

Hess is required to purchase offsets for NOx and VOCs. None of the offsets will be in the directly impacted community. In fact, NJDEP identified eight facilities - Anheuser Busch Inc., Covanta Essex, Lafarge North America Gypsum Division, Newark Bay Cogeneration Plant, Passaic Valley Sewerage Commission, PSE&G Essex Generating Station, PSE&G Kearny Generating Station, and UMDNJ - to be included in their cumulative impact analysis because of their emissions rates. None of these were identified as sources to acquire offsets, which would have mitigated some of the localized air pollution.

This facility should be required to identify and select offsets in the immediate vicinity of the impacted community.

**4.Hess NEC Natural Gas Plant will produce few if any economic benefits for Newark and will contribute to the further stigmatization of our community as a dumping ground for the State’s pollution burden.**

While this facility will generate energy for the Northern New Jersey region, the pollution burden will be concentrated in our already overburdened community. In return for continuing the pattern of disproportionate and cumulative burdens, residents will merely see 26 permanent jobs created; whether they will even go to local residents is questionable. As a matter of good policy and planning, we believe that these brownfields could be put to better use if they are remediated and redeveloped for green job intensive industries. If we take the same taxpayer subsidies and invest them in true renewable energy like wind and solar, we could produce green jobs for our residents without adding to the existing pollution burden. The true renewable energy sector requires a larger workforce ranging from manufacturing, construction, and installation to ongoing operation and maintenance. A growing body of evidence indicates that renewable energy technologies and investments in energy efficiency hold tremendous job creation potential.

Clean energy development not only helps to mitigate the twin challenges of climate change and fossil fuels dependency, it holds great promise in addressing the pressing need for high-quality jobs with pathways to sustainable careers for our community who have yet to benefit from the burgeoning green economy.

Throughout the life cycle of the NEC proposal there has been no discussion regarding alternative sites, the need for the increase in the size of the facility from its original proposal in the Energy Master Plan, inclusion of best available control technologies for PM since it is modeled as being barely under the threshold, and energy efficiency alternatives. The applicant should be required to demonstrate credible alternatives to the proposed location and the proposed technology as part of their application to the state.

**5. Increased oversight of this facility into the future should be required to ensure the plant does not further burden our community.**

NJDEP should make a commitment to enhanced inspection, monitoring and compliance oversight of this facility in light of the cumulative burdens that have already been established and recognized by your agency to exist in our community. We request that there be frequent inspections of the facility (minimally twice per year), regular stack testing (more than once per year) and close oversight of compliance reporting submitted by the applicant. In addition, ICC formally requests that any compliance reporting and inspection and enforcement actions be shared with ICC and the City of Newark's Sustainability Office on an annual basis. NJDEP should also implement an enhanced enforcement requirement that would seek to mitigate any violations from this facility and would result in stepped up penalties or trigger Supplementary Environmental Projects that benefit the local environment that they are impacting.

Besides enforcing the strictest reporting guidelines, NJDEP should require that there be a comprehensive review at the 5 year renewal period that includes enhanced public participation (extended comment periods, early notification of stakeholders, etc.). At the time of the renewal, we would request that the NJDEP review the net emissions regionally from power generation as well as new local offsets to meet their offset requirements and a review of best available technologies to ensure the facility is using the cleanest equipment possible. We thank you for the opportunity to review and comment on the proposed project and look forward to your thoughtful review and responses to our concerns. More importantly we look forward to a day when the regulatory process within NJDEP includes a substantive review of cumulative impact concerns that all environmental justice communities face.

Sincerely,



Joseph Della Fave  
Executive Director

CC:

Irene Kropp, Assistant Commissioner, NJDEP  
Judith Enck, Regional Administrator, US EPA Region 2  
Raymond Werner, US EPA Region 2  
Honorable Cory Booker, Mayor, City of Newark  
Adam Zipkin, Deputy Mayor, City of Newark