

MEETING SUMMARY

of the

EXECUTIVE COUNCIL

of the

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

**December 3, 4, and 6 2001
Seattle, Washington**

Meeting Summary Accepted By:



**Charles Lee
Designated Federal Officer**



**Peggy Shepard
Acting Chair**

United States
Environmental Protection
Agency

Enforcement and
Compliance Assurance
(2201A)

December 2001
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This report and recommendations has been written as a part of the activities of the National Environmental Justice Advisory Council (NEJAC), a public advisory committee providing extramural policy information and advice to the Administrator and other officials of the Environmental Protection Agency (EPA). The Council is structured to provide balanced, expert assessment of matters related to the Environmental Justice program. This report has not been reviewed for approval by the EPA and, hence, the contents of this report and recommendations do not necessarily represent the views and policies of the EPA, nor of other agencies in the Executive Branch of the federal government, nor does mention of trade names or commercial products constitute a recommendation for use.

PREFACE

The National Environmental Justice Advisory Council (NEJAC) is a federal advisory committee that was established by charter on September 30, 1993, to provide independent advice, consultation, and recommendations to the Administrator of the U.S. Environmental Protection Agency (EPA) on matters related to environmental justice. The NEJAC is made up of 24 members, and one DFO, who serve on a parent council that has six subcommittees. Along with the NEJAC members who fill subcommittee posts, an additional 32 individuals serve on the various subcommittees. To date, NEJAC has held seventeen meetings in the following locations:

- Washington, D.C., May 20, 1994
- Albuquerque, New Mexico, August 3 through 5, 1994
- Herndon, Virginia, October 25 through 27, 1994
- Atlanta, Georgia, January 17 and 18, 1995
- Arlington, Virginia, July 25 and 26, 1995
- Washington, D.C., December 12 through 14, 1995
- Detroit, Michigan, May 29 through 31, 1996
- Baltimore, Maryland, December 10 through 12, 1996
- Wabeno, Wisconsin, May 13 through 15, 1997
- Durham, North Carolina, December 8 through 10, 1997
- Arlington, Virginia, February 23 through 24, 1998 (Special Business Meeting)
- Oakland, California, May 31 through June 2, 1998
- Baton Rouge, Louisiana, December 7 through 10, 1998
- Arlington, Virginia, November 30 through December 2, 1999
- Atlanta, Georgia, May 23 through 26, 2000
- Arlington, Virginia, December 11 through 14, 2000
- Washington, DC, August 8 through 10, 2001
- Seattle, Washington, December 3 through 6, 2001

The NEJAC also has held other meetings which include:

- Public Dialogues on Urban Revitalization and Brownfields: Envisioning Healthy and Sustainable Communities, held in Boston, Massachusetts; Philadelphia, Pennsylvania; Detroit, Michigan; Oakland, California; and Atlanta, Georgia in the Summer 1995
- Relocation Roundtable, Pensacola, Florida, May 2 through 4, 1996

- Environmental Justice Enforcement and Compliance Assurance Roundtable, San Antonio, Texas, October 17 through 19, 1996
- Environmental Justice Enforcement Roundtable, Durham, North Carolina, December 11 through 13, 1997
- International Roundtable on Environmental Justice on the U.S./Mexico Border, San Diego, California, August 19 through 21, 1999

As a federal advisory committee, the NEJAC is governed by all provisions of the Federal Advisory Committee Act (FACA) of October 6, 1972. Those requirements include:

- Members must be selected and appointed by EPA
- Members must attend and participate fully in meetings of the NEJAC
- Meetings must be open to the public, except as specified by the EPA Administrator
- All meetings must be announced in the Federal Register
- Public participation must be allowed at all public meetings
- The public must be provided access to materials distributed during the meeting
- Meeting minutes must be kept and made available to the public
- A designated federal official (DFO) must be present at all meetings of the NEJAC (and its subcommittees)
- The NEJAC must provide independent judgment that is not influenced by special interest groups

Each subcommittee, formed to deal with a specific topic and to facilitate the conduct of the business of the NEJAC, has a DFO and is governed by the provisions of FACA. Subcommittees of the NEJAC meet independently of the full NEJAC and present their findings to the NEJAC for review. Subcommittees cannot make recommendations independently to EPA. In addition to the six subcommittees, the NEJAC has established a Protocol Committee, the members of which are the chair of the NEJAC and the chair of each subcommittee.

Members of the Executive Council of the NEJAC are presented in the table on the following page. A list of the members of each of the six subcommittees are presented in the appropriate chapters of the report.

EPA's Office of Environmental Justice (OEJ) maintains transcripts of, summary reports on the meetings of the NEJAC, and copies of material distributed during the meetings. Those documents are available to the public upon request.

Comments or questions can be directed to OEJ through the Internet. OEJ's e-mail address is:

environmental-justice-epa@epa.gov

Executive summaries of the reports on the meetings of the NEJAC are available in English and Spanish on the Internet at the NEJAC's World Wide Web home page:

<http://www.epa.gov/compliance/environmentaljustice/index.html> (click on the link to the National Environmental Justice Advisory Council)

**NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL
MEMBERS OF THE EXECUTIVE COUNCIL
(2001)**

Designated Federal Official:

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EXECUTIVE SUMMARY

INTRODUCTION

This executive summary presents highlights of the sixteenth meeting of the National Environmental Justice Advisory Council (NEJAC), held December 3 through 5, 2001 at the Renaissance Madison Hotel in Seattle, Washington. Each of the six subcommittees of the NEJAC met for a full day on December 5, 2001. On December 4, the NEJAC hosted a public comment period that focused on fish consumption and contamination of fish populations. Approximately 300 persons attended the meetings and the public comment period.

The NEJAC is a federal advisory committee that was established by charter on September 30, 1993 to provide independent advice, consultation, and recommendations to the Administrator of the U.S. Environmental Protection Agency (EPA) on matters related to environmental justice. Ms. Peggy Shepard, West Harlem Environmental Action, serves as the chair of the Executive Council of the NEJAC. Mr. Charles Lee, Associate Director for Policy and Interagency Liaison, EPA Office of Environmental Justice (OEJ), serves as the Designated Federal Officer (DFO) for the Executive Council. Exhibit ES-1 lists the chair, the vice-chair, and the DFO of the Executive Council, as well as the individuals who serve as chairs and vice-chairs of the six subcommittees of the NEJAC and the EPA staff appointed to serve as DFOs for those subcommittees.

OEJ maintains transcripts and summary reports of the proceedings of the meetings of the NEJAC. Those documents are available to the public upon request. The public also has access to the executive summaries of reports of previous meetings, as well as other publications of the NEJAC, through the World Wide Web at <http://www.epa.gov/oeca/main/ej/nejac/index.html> (click on the publications icon). The summaries are available in both English and Spanish.

REMARKS

Mr. Ron Kreizenbeck, Deputy Regional Administrator, EPA Region 10, welcomed the participants in the meeting of the NEJAC to Seattle. He stated that EPA Region 10 includes the states of Washington, Oregon, Idaho, and Alaska and is home to many diverse, low-income communities; communities of color; and more than 270 native tribes, the members of which subsist on fish, plants, and wildlife. The degradation of habitats and depletion of resources threatens the very way of life of those people, he continued. Mr. Kreizenbeck then stated that issues related to subsistence life styles must be addressed to ensure equal environmental protection, regardless of race, income, culture, or ethnicity.

Exhibit ES-1

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL CHAIRS AND DESIGNATED FEDERAL OFFICERS (DFO)

Executive Council:

Ms. Peggy Shepard, **Chair**
Mr. Charles Lee, **DFO**

Air and Water Subcommittee:

Ms. Annabelle Jaramillo, **Chair**
Ms. Eileen Guana, **Vice-Chair**
Ms. Alice Walker, **co-DFO**
Dr. Wil Wilson, **co-DFO**

Enforcement Subcommittee:

Ms. Savonala Horne, **Chair**
Mr. Robert Kuehn, **Vice-Chair**
Ms. Shirley Pate, **DFO**

Health and Research Subcommittee:

Ms. Rose Marie Augustine, **Chair**
Ms. Jane Stahl, **Vice-Chair**
Ms. Brenda Washington, **co-DFO**
Ms. Aretha Brockett, **co-DFO**

Indigenous Peoples Subcommittee:

Ms. Jennifer Hill-Kelly, **Chair**
Ms. Jana Walker, **Vice-Chair**
Mr. Daniel Gogal, **DFO**
Mr. Bob Smith, **alternate-DFO**

International Subcommittee:

Mr. Alberto Saldamando, **Chair**
Mr. Tseming Yang, **Vice-Chair**
Ms. Wendy Graham, **DFO**

Puerto Rico Subcommittee:

Dr. Graciela Ramirez-Toro, **Chair**
Ms. Teresita Rodriguez, **DFO**

Waste and Facility Siting Subcommittee:

Ms. Veronica Eady, **Chair**
Mr. Reiniero Rivera, **DFO**

Governor Gary Locke, (D), sent greetings to the members of the NEJAC, welcoming them to Seattle. In his letter, Governor Locke emphasized that the issues related to water quality and fish consumption were especially important to the residents of Washington. Exhibit 1-2 in Chapter One of this report contains a copy of that letter.

Ms. Rosa Franklin, State Senator, Washington State Legislature and former member of the NEJAC, commented on the timeliness of the current meeting of the NEJAC, held to discuss the relationship between among water quality, fish consumption, and environmental justice. While contaminated air and toxic streams affect all citizens, she continued, the changing demographics in the state of Washington and the Pacific Northwest have brought a new urgency to the issue of fish consumption. Therefore, she said, there is an urgent need in the region to further identify and quantify the types and magnitudes of risks to communities and tribes that subsist on wild fish, plants, and other wildlife. Ms. Franklin stressed that the activities of the NEJAC could have a long-term effect on the health of those communities.

Ms Velma Veloria, Washington State Representatives and former member of the NEJAC, explained that the state of Washington had worked over the past three years to ensure that water is clean and that fish populations continue to flourish in the state of Washington. She discussed environmental justice legislation passed in the state, including a bill that charged the state's Department of Ecology and Department of Health with jointly preparing a report on environmental risks faced by low-income and minority groups; legislation that reformed the way work at cleanup sites is taxed; and legislation that requires the Department of Health to examine the health effects of noise, particularly in the vicinity of the city of Seattle's international airport.

Ms. Yalonda Sinda, Community Coalition for Environmental Justice, stated that her organization had been the first non-profit environmental justice group in the Seattle area. She then expressed her excitement about the opportunity to bring issues related to fish consumption and water quality before the NEJAC during the current meeting.

Mr. Moses Squeochs, Yakima Nation and member of the Indigenous Peoples Subcommittee, stated his appreciation for the efforts of the NEJAC, but he also expressed concern that such a federal advisory committee is needed to carry out the laws related to environmental justice enacted by the Congress of the United States. Continuing, he said that the "hunter-gatherer" way of life continues to be practiced and that there is a strong intent to preserve that way of life. He then stated that the search for justice, fairness, and equality in relation to environmental issues must continue.

REPORTS AND PRESENTATIONS

The members of the Executive Council received the following presentations:

Members of the NEJAC Fish Consumption Work Group provided an update on the NEJAC's *Draft Fish Consumption Report*. During their presentation, the members of the work group reviewed the findings of the work group, as outlined in the *Draft Fish Consumption Report* that had been compiled in preparation for the December 2001 meeting of the NEJAC. The members of the Fish Consumption Work Group also presented a number of "overarching recommendations" based on the conclusions presented in the draft report. The members of the NEJAC then discussed the report and the recommendations at length, suggesting revisions in the draft report and identifying additional recommendations. Members of the NEJAC requested that final comments on the *Draft Fish Consumption Report* be submitted to OEJ by January 31, 2002. The anticipated date for completion of the report is March 15, 2002. Mr. Lee stated that a conference call was to be scheduled with affected communities, tribes, and stakeholders to discuss the report.

Ms. Shepard presented the NEJAC's *Strategic Plan* to the members of the Executive Council. The plan incorporates the issues raised and conclusions reached during the special business meeting of the Executive Council of the NEJAC, held in Washington, D.C. in August 2001, and outlines the strategy of the NEJAC for: (1) redesigning its activities to better fulfill its role as an advisor; (2) collaborating with EPA to provide alternative mechanisms through which communities can bring site-specific issues to the attention of EPA; and (3) developing, through a deliberative process that involves all stakeholders, an effective work product that addressed issues related to environmental justice that are of principal concern

to communities. The *strategic plan* will guide the work of the NEJAC through September 27, 2003, Ms. Shepard announced.

Mr. Lee identified a series of tasks and provided assignments to members of the NEJAC to assist in implementing the strategic plan. The tasks are:

- Finalization of the NEJAC Policy Advice Development Model
- Finalization of the NEJAC Model for incorporating community issues and concerns into the NEJAC policy dialogue
- Development of definitions of consensus and consensus-building
- Development of a scoping report from the Ad Hoc Scoping Work Group on Cumulative Risk Issues

WORK GROUP REPORTS AND COMMENTS

The members of the Executive Council of the NEJAC received reports and comments from the following individuals:

- Ms. Eileen Guana, Southwestern University School of Law and Vice-Chair of the Air and Water Subcommittee, made a presentation on the Interagency Environmental Justice Implementation Work Group.
- Mr. Brandon Carter, EPA Federal Facilities Restoration and Reuse Office (FFRRO), provided an update on the Federal Facilities Work Group.
- Ms. Wilma Subra, Louisiana Environmental Action Now, member of the Air and Water Subcommittee, and chair of the newly formed Pollution Prevention Work Group, presented an update on the status of the development of the work group.

Mr. Lee reported that the Federal Facilities Work Group will work in coordination with and report to the NEJAC Waste and Facility Siting Subcommittee because the primary support for this work group is being provided by the Office of Solid Waste and Emergency Response (OSWER), which also supports that subcommittee. OSWER has committed to adding another member to the subcommittee to provide interface with the work group, he said.

Other presentations received by the Executive Council of the NEJAC were:

- Mr. Barry Hill, Director, EPA OEJ, reported on the status of EPA's efforts to implement recommendations included in the report of the Environmental Law Institute (ELI) report titled *Opportunities for Advancing Environmental Justice: An Analysis of U.S. EPA Statutory Authorities*. The ELI report reviews EPA's major environmental regulations that govern air and water quality, waste management, use of pesticides and other chemicals, and the public's right to know. The report identifies specific statutory authorities that can be used to promote environmental justice in the full range of EPA program functions, including the establishment of standards and the permitting process.
- Ms. Ann Goode, Senior Consultant, Center for the Economy and Environment, National Academy of Public Administration (NAPA), made a presentation on NAPA's research and evaluation of EPA's efforts to address the widely recognized fact that low-income communities and communities of people of color that are exposed to significantly greater environmental and public health hazards than other communities face. NAPA's research and associated recommendations, reported Ms. Goode, are presented in a report titled *Environmental Justice in EPA Permitting: Reducing Pollution in High-Risk Communities is Integral to the Agency's Mission.* In the report, she continued, NAPA recommends that EPA make changes in four distinct areas related to environmental justice: leadership, permitting procedures, setting of priorities, and public participation.

- Mr. Martin Halper, Senior Science Advisor, EPA OEJ, provided an overview of EPA's draft *Framework for Cumulative Risk Assessment* prepared by the Cumulative Risk Technical Panel of the EPA Risk Assessment Forum, a standing committee of senior EPA scientists. The purpose of this briefing is to help NEJAC prepare to address the issues of cumulative risk, which will be the policy issue area to be discussed in 2003.

VIRTUAL TOUR AND RELATED DIALOGUE

Members of the NEJAC participated in a "virtual tour" dialogue of selected communities that are affected by issues related to environmental justice, fish consumption, and water quality. Representatives of five community organizations presented information about the contamination of waterways on which Native Americans and impoverished people depend for survival and the loss of Native American heritage and culture, as well as issues related to the exposure of farm workers to pesticides and herbicides. The topics discussed are described briefly below.

Mr. Frank Roberts, Coeur d'Alene Tribe, Idaho, discussed the exposure of the Coeur d'Alene Tribe to contamination caused by strip mining practices carried out on properties located near tribal lands. Mr. Roberts explained that, although contamination currently is being cleaned up, preservation of tribal culture has been threatened because the tribe cannot use the land for traditional purposes.

Mr. Daniel Morfin, Granger, Washington, explained that the application of herbicides and pesticides for agriculture use is contaminating rivers and exposing farm workers to contaminants. The incidence of respiratory ailments in the Granger area is high, and existing regulations are not being enforced, said Mr. Morfin.

Ms. Jeri Sundvall, Environmental Justice Action Group of Portland, Portland, Oregon, pointed out the high rate of cancer among Native American fishermen. In addition, she charged, Native Americans are being robbed of their heritage and are expected to become assimilated into the broader culture.

Ms. Rosemary Ahtuanguak Inupiat Community of Arctic Slope, Barrow, Alaska, expressed concern that state agencies often "favor profit" over protection of the interests and concerns of tribes. Ms. Ahtuanguak explained that, although federal agencies have declared fish populations safe to eat, the methodology for assessing risk does not consider the higher-than-average rates of fish consumption among Native Americans.

Ms. Lee Tanuvasa, Korean Woman's Association, Tacoma, Washington, reported that her organization was conducting a study to determine the safety of shellfish consumed by communities of Asian Pacific Island people. She requested assistance in overcoming the language barrier and in determining how best to present the findings of the study to the communities affected by the issue.

PUBLIC COMMENT PERIOD

The Executive Council of the NEJAC hosted a public comment period on December 4, 2001, at which approximately 29 people participated. Described below are a summary of key concerns citizens expressed during the evening session.

- A majority of the public comments focused on the issue of contaminated waterways and the land on which Native Americans and other impoverished people depend for living a subsistence life style. Commenters pointed to rates of cancer and respiratory ailments among Native American populations that are higher than the rates among non-Native populations in the United States. The commenters stated that the inability of Native peoples to "live off the land" has led to a decline in the transfer of spiritual and cultural values from generation to generation. The best way to reduce contamination in waterways is to eliminate the source of the pollution, declared a number of commenters.
- Several commenters spoke about the ineffectiveness of risk assessments. Risk assessments, as currently conducted, do not account for the cumulative effect of numerous chemicals on the environment, they stated. Rather, those risk assessments examine only a single chemical, they

claimed. Risk assessments focus only on cancer and fail to consider other health issues, they added. Further, they do not account for the effect of chemicals on sensitive populations, several commenters noted.

- A number of commenters criticized EPA for failing to make an adequate effort to hold the U.S. Department of Defense (DoD) accountable for the contamination of communities located on or near military installations. EPA is not enforcing existing environmental regulations that govern DoD facilities, the commenters claimed.

OTHER CONCERNS AND COMMITMENTS OF THE NEJAC

During their meeting, the members of the Executive Council of the NEJAC recommended that a work group be established to address communications within the NEJAC and between the NEJAC and EPA program offices. In addition, the members agreed to review and provide comments on the *Framework for Cumulative Risk Assessment*. Formal development of the guidance will begin in 2002.

SUMMARIES OF THE SUBCOMMITTEE MEETINGS

Summarized below are the deliberations of the subcommittees of the NEJAC held on December 5, 2001.

Air and Water Subcommittee

The members of the Air and Water Subcommittee of the NEJAC received the presentations and reports described below and discussed the topics summarized.

Mr. James Hanlon, EPA Office of Science and Technology (OST), provided preliminary comment on the feasibility of implementing the recommendations presented in the NEJAC's *Draft Fish Consumption Report*. Mr. Hanlon commended the Fish Consumption Work Group for its efforts and emphasized that the availability of resources for the most part will determine what EPA can accomplish. Mr. Hanlon also reviewed the logistics associated with the completion of the report and its submittal to the EPA Administrator.

Mr. Lee presented an overview of and led discussions about the NEJAC *Strategic Plan*. He also discussed the meeting of the NEJAC scheduled for December 2002 that will focus on issues related to pollution prevention and environmental justice.

Mr. Jeff Bigler, EPA OST, provided to the Fish Consumption Work Group an update on plans to revise volume four of EPA's *Guidance Document for Assessing Chemical Contamination Data for Use in Fish Advisories* to incorporate awareness of issues related to environmental justice.

Mr. Peter Murchie, EPA Region 10 Office of Air Quality Planning and Standards (OAQPS), presented to the Air Toxics Work Group an overview of EPA's air toxics program.

The members of the subcommittee discussed the need to establish priorities among the recommendations presented in the *Draft Fish Consumption Report* to (1) help EPA focus its efforts and (2) avoid overwhelming the agency with numerous recommendations. The members agreed that, although the list of recommendations may appear lengthy, individual items can be grouped under a few overall themes.

The members of the subcommittee discussed the potential effect of the *NEJAC Strategic Plan* on the manner in which the subcommittee conducts its business. The members agreed that the subcommittee must focus its efforts on only a few key issues, rather than attempting to "cover the whole waterfront" as it had done in its early days. The members also agreed to explore methods of evaluating the effectiveness of the subcommittee's work groups on specific issues.

The members of the subcommittee emphasized that the work of the Fish Consumption Work Group must be used as a model to guide planning for the meeting of the NEJAC to be held in December 2002. The members also requested that, in preparation for that meeting, the newly formed Pollution Prevention Work

Group should examine issues related to (1) environmental restoration, (2) clean production, (3) low-impact development, and (3) the costs and benefits of pollution prevention.

Members of the Fish Consumption Work Group discussed the plans of EPA's Office of Water to revise volume four of its *Guidance Document for Assessing Chemical Contamination Data for Use in Fish Advisories*. The members of the work group agreed to (1) review the document and provide comment on it to EPA and (2) identify and recommend individuals to serve on various EPA stakeholder work groups and as technical consultants for the issuance of fish advisories. The members of the subcommittee also discussed the future of the Fish Consumption Work Group, once the *Draft Fish Consumption Report* has been completed. The members recommended that the work group expand its scope to explore other issues related to water quality, such as total maximum daily loads (TMDL), confined animal feeding operations (CAFO), and water permits.

The Permitting and Public Utilities work groups participated in a joint session, during which they agreed to combine the two groups into a single work group. The members of the work groups discussed EPA's White Paper No. 3 on flexible permitting, a report on a new source review study prepared by EPA's Office of Air and Radiation (OAR), and other issues related to the permitting process. The members of the newly combined work group agreed to develop a document that will describe "best practices" for permitting that are sensitive to environmental justice issues, as well as review and provide comment on the report on a new source review study the release of which is expected in January or February 2002. Members of the work group also expressed concern that staffing of the work group was inadequate, in light of the number of issues the group had taken under consideration.

The members of the Air Toxics Work Group discussed EPA's air toxics program. The members agreed to review and provide comment on EPA OAR's *Work Plan for the National Air Toxics and Integrated Air Toxics Strategy*.

Health and Research Subcommittee

The members of the Health and Research Subcommittee of the NEJAC received the presentations and reports described below and discussed the topics summarized.

Mr. Patrick C. West, Emeritus Faculty, Environmental Sociology, School of Natural Resources and Environment, University of Michigan, commented on research needed in the realm of environmental justice and application of that research. Mr. West stated that lack of research should not be a barrier to action, that existing information can be used, and that current research must be investigated to identify the information to support action. Mr. West stressed that systematic and qualitative assessment of both cumulative effects and co-risk factors must be included in the assessment of risks for such sensitive groups as communities of color, low-income communities, and Native American tribes.

Ms. Tala Henry, Mid-Continent Ecology Division, EPA National Health and Environmental Effects Research Laboratory, provided information about the parameters that are factors in the calculation of risk. She emphasized that there is no specific procedure for the calculation of risk and that the default parameters are not applicable under certain circumstances, such as assessment of the risks to sensitive groups. Therefore, she explained, partnerships between experts and communities must be fostered so that defensible and appropriate risk parameters can be established.

Mr. Wardner G. Penberthy, EPA Chemical Control Division, presented an overview of Section 4 of the Toxic Substances and Control Act, which focuses on chemical testing. He provided detailed information about EPA's High Production Volume (HPV) Challenge program, a voluntary testing program for facilities that produce large volumes of chemicals. The goal of the program is to increase the availability to the public of baseline data on the effects on health and the environment for approximately 2,800 HPV chemicals, reported Mr. Penberthy.

Mr. Jeffrey Morris, EPA Office of Science Policy, Office of Research and Development (ORD), recommended a change in the structure of the subcommittees of the NEJAC. Citing EPA's goals related to the Government Performance and Results Act (GPRA), Mr. Morris explained that, because health and

research issues related to environmental justice cross boundaries among the various subcommittees, such issues should be handled by a special interest work group, rather than an individual subcommittee.

The members of the subcommittee conducted a number of discussions about the accurate calculation of risk for sensitive groups. The specific recommendations they agreed upon are:

- It is essential that various factors related to cultural and spiritual concerns be included in models for assessing risk. In addition, such factors as culture shock and cultural disintegration must be addressed.
- Parameters used in the calculation of risk must be specific to each particular community. Parameters that currently are not included in risk assessment models include peak exposure and consumption of whole fish, rather than the more widely used parameters of chronic exposure and consumption of only the fillet of a fish.
- The types of foods identified as components of a subsistence diet should include many more foods that are not consumed by the general population.
- Co-risk and cumulative risk factors should be used as a more accurate gauge of “true risk” because people are exposed to more than one chemical at a time.
- If the recommendations of the subcommittee on the subject of calculation of risk are to be adopted, the definitions of “health” for a community and of what is to be considered “normal” must be reconsidered.

The subcommittee recommended that the NEJAC consider the subsistence consumption needs of such groups as Native Hawaiians and people in the Virgin Islands who were not considered as the report was developed. The members of the subcommittee agreed that inclusion of those groups would help achieve recognition of cultural groups that traditionally have been ignored in research related to environmental justice.

The members of the subcommittee agreed that the need for research often is used as a barrier to action and acknowledged that the information available is adequate to support the initiation of work. There is an abundance of information that, although originally was not applied to issues of environmental justice, can be reevaluated for its significance in the field of environmental justice, they noted. In addition, the members recommended that extensive investigation of previous research be conducted to identify available resources.

The members of the subcommittee agreed that the evaluation of HPV chemicals and the distribution to the public of the baseline health data are crucial actions. Although some members expressed concern about whether industry could be trusted to report reliably on production, the members agreed that there are many safeguards related to testing and that the penalty for falsification is severe.

The subcommittee recommended increased cooperation between government agencies and local organizations in sharing data and calling upon the expertise of indigenous organizations. Noting that local people have first-hand knowledge and understanding of their communities and can gather information more efficiently than outsiders, the members recommended that research be best conducted by local groups, with the assistance and support of EPA.

Indigenous Peoples Subcommittee

The members of the Indigenous Peoples Subcommittee of the NEJAC received the presentations and reports described below and discussed the topics summarized.

Mr. Merv George, Administrator, Klamath River Inter-Tribal Fish and Water Council and member of the Hupa Tribe, provided background information about the history of the council, outlined the five issues the council addresses, and submitted his recommendations for improving the *Draft Fish Consumption Report*.

He stressed that the Hupa and Yura tribes constantly must balance environmental and economic issues when developing standards for water quality.

Ms. Gillian Mittelsteadt, Environmental Policy Analyst, Tulalip Tribes Natural Resource Program, and Mr. Daryl Williams, Developer, Tulalip Tribes Natural Resource Program, presented the results of their study that examined the consumption by members of the Tulalip Tribe of fish taken from Puget Sound. Ms. Mittelsteadt described the statistical framework of the study and outlined the benefits and lessons learned through completion of the study. Mr. Williams discussed the problems that arise because, he said, programs allow the trading of pollution emissions credits. Mr. Williams emphasized the negative effects such programs have on tribal communities.

Mr. Tom Goldtooth, Executive Director, Indigenous Environmental Network and former chair of the Indigenous Peoples Subcommittee, presented his recommendations for improving the *Draft Fish Consumption Report*. He urged that the NEJAC consider the negative effects of radioactive contaminants on habitats and focus attention on precautionary actions, rather than traditional risk assessment. He also recommended that the NEJAC promote outreach to tribal communities to help those communities develop a better understanding of the mission and responsibilities of the NEJAC.

Dr. Roseanne Lorenzana, liaison between Region 10 and EPA ORD, presented a list of five specific recommendations for consideration by the subcommittee. She also presented the report *Comparative Dietary Risks: Balancing the Risks and Benefits of Fish Consumption*, for which a risk assessment model was used to define the conditions under which consumption of fish is a healthful dietary choice. She urged that the subcommittee advise EPA to work with tribes to develop guidelines on cumulative risk that are appropriate to the needs of tribes.

Ms. June Martin, Alaska Community Action on Toxics, began her presentation by telling the story of Annie Aloa, a health aide in her village who had spoken out on behalf of the tribal community and who had been awarded a grant by the National Institute for Environmental Health Sciences (NIEHS) to survey the health problems of members of the tribe. Ms. Martin then discussed the failure of the U.S. Army Corps of Engineers to clean up the military facility located near her village.

Ms. Ahtuanguaruak, who is a native of the village of Nuigant, Alaska, expressed her concern about and recommendations for improving the representation of Alaskan Natives on the Indigenous Peoples Subcommittee. She also urged that, in the *Draft Fish Consumption Report*, the subcommittee address the tribal lands of Alaskan Natives, such as Prudhoe Bay. Residents of those lands, she pointed out, rely on fishing and whaling for subsistence.

Ms. Pam Miller, Alaska Community Action on Toxics, expressed concern about the health of Alaskan Natives tribal communities that are located on or near sites that have been abandoned by DoD. She also voiced the concern of tribes about persistent organic pollutants (POP) that originate thousands of miles south of Alaska, travel northward, and accumulate over northern Alaska. She requested that the subcommittee advise EPA to hold DoD accountable for previous contamination and to focus on the phased elimination of POPs.

Mr. Enoch Sheidt, Subsistence Coordinator, Maniilaq Association, and Mr. Francis Chin, Environmental Justice Coordinator, Maniilaq Association, emphasized the importance of a subsistence lifestyle to Alaskan Natives who are nomadic and migrate to locations where food is available. Consequently, the presenters reported, tribes do not recognize the concept of "on reservation" and "off reservation." To an Alaskan Natives, fishing is not merely a method of obtaining food, but rather is a spiritual experience, they explained. In addition, Mr. Chin stated that the unemployment rate in the Indian community is 90 to 95 percent. Therefore, a subsistence lifestyle is an essential way of life that cannot be compromised, he said.

Mr. Art C. Ivanoff, Native Village of Unalakleet, expressed his concern about the effects of climate change on the health of Alaskan Natives. Mr. Ivanoff requested that the *Draft Fish Consumption Report* include climate change as a factor that affects the quality of fish. Climate change has depleted greatly the running stock of salmon, while the migration patterns of salmon and animals used for food have not been studied sufficiently, he explained.

Ms. Cheryl Steele, Elem Indian Colony, stated that fish advisories do not address issues related to the consumption of fish sufficiently. She urged that EPA provide indigenous peoples better guidance about contaminated fish populations and that the agency work with local communities to eliminate sources of contamination.

Mr. Kevin McKernan, Yurok Tribe, urged EPA to acknowledge those tribes that have developed and adopted water quality standards. He stated that the use of EPA core standards might direct resources away from tribes that have their own standards.

Ms. August Rozema, Swinomish Tribe, stated that the subcommittee and the NEJAC must “spread the word” about its future meetings. She also encouraged the subcommittee to clarify the definition of the word “fish” provided in the *Draft Fish Consumption Report* to include both fin- and shellfish.

The members of the subcommittee requested that the Alaskan Native community provide them more information about issues related to fish consumption and water quality standards. After listening to testimony offered by representatives of Alaskan Native communities, the members recognized that the concerns of all indigenous peoples throughout the world, including those of Hawaii and the Caribbean, also must be represented equally.

The members of the subcommittee discussed the effectiveness of risk assessment in adequately addressing issues related to fish consumption, noting that traditional risk assessment models currently do not include reference to pollution prevention and sustainability. The members recommended that a “precautionary principle” approach to risk assessment replace the traditional model to account for the benefits of preservation. The members also noted that risk assessment currently does not take into account the fact that the variable average grams per day (gpd) used in most models cannot be extrapolated to the lifestyle of members of indigenous communities, who consume many more fish in a much shorter period of time than do members of other groups, thereby increasing their risk to a level disproportionate to that affecting other groups.

The members expressed concern that fewer than 20 WQSs created by individual tribal communities have been approved. Additional discussion focused on the difficulties tribal communities encounter in their efforts to achieve the standards outlined in the WQSs because of economic setbacks.

The members of the subcommittee agreed to advise the NEJAC to urge EPA to augment its education programs for tribal communities by providing more information about the role of the NEJAC. In addition, the members recommended that tribes be included regularly in the deliberative process and that the subcommittee change its role from that of “consultation” to that of “collaboration,” a role that would include deliberative dialogue. Such a change would improve communication between the NEJAC and indigenous communities, they suggested.

International Subcommittee

The members of the International Subcommittee of the NEJAC received the presentations and reports described below and discussed the topics summarized.

Mr. Goldtooth discussed the need to focus on issues of environmental justice related to transborder matters that affect the First Peoples of North America and indigenous tribes in the Great Lakes basin. He reported that First Nations and tribes in the Great Lakes basin suffer a disproportionate share of environmental problems associated with the transport of POPs. The effects of POPs are intensified among people who rely on a subsistence diet, he pointed out.

Ms. Katy Taylor, Assistant Director of Community Health Services, Alaska Native Tribal Health Services, presented an overview of recent studies of the effects of POPs on the health of Alaskan Native women and children who rely on subsistence consumption as the mainstay of their diets.

Ms. Miller provided information about the movement of POPs, facilitated by air and ocean currents, into Alaska and the Arctic region. She also discussed contamination of DoD sites in Alaska.

Ms. Amy Fraenkel, EPA Office of International Activities (OIA), addressed the transborder risks associated with exposure to POPs. She also presented information about progress toward completion of the Global Persistent Organic Pollutants Treaty (also known as the Stockholm POPs Convention). She emphasized that environmental justice groups must work to influence the process of planning how the United States will implement the provisions of the treaty.

Ms. Eileen Henninger, EPA OIA, stated that it is important that the NEJAC provide comment to OIA on issues related to biodiversity. Some of the work in that area will bring about major worldwide reductions in the use of key harmful chemicals in farming and industrial applications, she said.

Mr. Lionel L. Brown Jr., Senior Information Management Officer, EPA OIA, presented an update on the efforts of OIA to promote environmental awareness in Africa. Many areas in Africa are experiencing rapid urbanization, he reported, adding that OIA has been working to educate local communities about issues related to environmental justice. Mr. Brown also emphasized the heavy reliance on fish in the diets of African people.

Mr. Enrique Manzanilla, Director, Cross Media Division, EPA Region 9, provided background information about EPA's work related to the border areas of the United States and Mexico. He reviewed the activities undertaken by Region 9 during the two years since the Roundtable on Environmental Justice on the U.S.-Mexico Border was held in San Diego, California and reported on the success of outreach efforts conducted by the Region 9 Border Liaison Office, located in San Diego.

Ms. Olivia Balandran, Office of the Regional Administrator, EPA Region 6, presented an update on the outreach activities of the region's border office. She reported that the recent activities of that office included efforts to respond to the recommendations presented at the roundtable meeting on the U.S.-Mexico border.

Ms. Nelda Pérez, Small Grants Coordinator, EPA Region 6 OEJ, presented information about activities related to grants awarded to groups located in the U.S.-Mexico border area.

Mr. Richard Moore, Executive Director, Southwest Network for Environmental and Economic Justice, and former chair of the NEJAC, described letters his organization had written to EPA Administrator Christine Todd Whitman and President Bush. Mr. Moore discussed the effects of increased militarization along the U.S.-Mexico border that has taken place since the terrorist attacks of September 11, 2001. He also requested that the subcommittee complete the reports produced for the Roundtable on Environmental Justice on the U.S.-Mexico Border and prepared by the NEJAC Farm Worker Work Group.

Mr. Apichart Thongyou, Secretary General, Thailand Research and Action for Development Institute, discussed efforts undertaken in Thailand to reduce adverse effects on conditions of concern to the environmental justice community that are caused by modernization and the development of heavy industry. He and several other members of the delegation of visitors from Thailand discussed several studies that examined heavy contamination by industry and its effect on fishermen who rely on fishing for subsistence. Mr. Thongyou also described the work of EPA and its counterpart in Thailand to create a public participation process, reauthorize environmental laws, and create a new ministry for the environment.

The members of the subcommittee also participated in discussions related to various topics:

- The members of the subcommittee identified similarities in the shortcomings of enforcement and public participation efforts in Thailand and other nations. They discussed the value of, and the need for, an international environmental network to support the transfer of information and data.
- The members of the subcommittee concluded that the NEJAC and OIA should collaborate to build a strong relationship between the work of OIA in Africa and the environmental issues addressed by the NEJAC.
- The members of the subcommittee discussed OIA's strategy of deploying culturally diverse teams to represent EPA in international discussions. The members concluded that such a strategy is

essential in engaging communities in discussions of treaties and encouraging collaboration between the United States and other countries in the sharing of resources.

- The members agreed that practices that contaminate water in one country and thereby affect the health of residents of another country illustrate the “interconnectedness” of the global environment. The members noted the similarity of the predicaments of subsistence fisherman in the United States and other nations.
- The members of the subcommittee concluded that there is a significant opportunity for the NEJAC to participate in the development of the plan for the implementation by the United States of the Stockholm POPs Convention. They also agreed to provide comment to OIA about the level of implementation of the treaty. In addition, the members discussed the need to include in the treaty provisions for a system for tracking the movement of POPs across the borders of the United States.

Waste and Facility Siting Subcommittee

The members of the Waste and Facility Siting Subcommittee of the NEJAC received the presentations and reports described below and discussed the topics summarized.

Mr. Michael Shapiro, Deputy Assistant Administrator, EPA Office of Solid Waste and Emergency Response (OSWER), and Ms. Linda Garczynski, EPA OSWER, provided an overview of the direction new senior managers plan for OSWER. They discussed the vision, mission, priorities, and values of the office, reviewed changes that are taking place, and identified several key priorities for OSWER:

- Pursuit of the One Cleanup Program Initiative, which is designed to make the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) programs more consistent with one another and to increase the right-to-know component of each.
- Establishment of revitalization and reuse as core issues of the OSWER action agenda.
- Implementation of recycling and pollution prevention programs to encourage partnerships and demonstration pilot projects in the area of reduction in source contamination.
- Implementation of the Retail Initiative, which is designed to increase focus on public involvement in the use of solid and hazardous waste and improve dialogue among communities.
- Implementation of work force development programs to strengthen the effort to train new staff of OSWER to meet its future challenges.

Mr. Samuel J. Coleman, EPA Region 6, provided an update on issues of environmental justice that affect the community of Mossville, Calcasieu Parish, Louisiana. Mr. Coleman identified several specific milestones:

- Installation of an enhanced air monitoring network sanctioned by the Lake Area Industrial Alliance and the Louisiana Department of Environmental Protection (LDEP).
- Achievement of overall compliance with the requirements of LDEP and establishment of parishwide dioxin screening as a standard procedure.
- Creation of an advisory council that works closely with the community, industry, and LDEP.
- Conduct a pilot health symposium designed to address health problems associated with exposure to environmental hazards and contaminants.

Ms. Sharon Beard, NIEHS, made a presentation on worker education and training.

Mr. Carter; Dr. Mildred McClain, Executive Director, Citizens for Environmental Justice; and Ms. Doris Bradshaw, Executive Director, Defense Depot Memphis Tennessee Concerned Citizens Committee, made a presentation on the role of FFRRO in working with communities affected by adverse environmental conditions. They explained that FFRRO plans to:

- Identify and evaluate key issues of concern to such communities.
- Provide a forum for dialogue between members of local communities and representatives of government agencies.
- Compile a list of resources available to communities and stakeholders that can help support increased public participation.
- Formulate a set of recommendations to the NEJAC, including the identification of "best practices" for improving environmental cleanups and ways in which the NEJAC can best address issues related to federal facilities.

The members of the subcommittee discussed the development of a strategic plan for the subcommittee. Key issues they identified included the creation of a work force development committee and examination of the role of the subcommittee on the Pollution Prevention Working Group. Additional themes they identified included exploration of EPA's role in fostering strategic planning by communities for the re-use and revitalization of contaminated sites, action to be taken after cleanup has been completed, and use of lessons learned through demonstration projects conducted by the Integrated Work Group on Environmental Justice and other outstanding projects.

The members of the subcommittee discussed at length three pending action items for 2002:

- Transfer of the Federal Facilities Work Group to the Waste and Facility Siting Subcommittee and addition of another member to that work group.
- Provision of assistance to FFRRO in its efforts to integrate issues related to land use, development, and redevelopment into the programs and procedures of EPA.
- Identification of models, such as the Washington Naval Yard and other sites, to be used as positive examples of OSWER's work with communities to achieve revitalization and reuse.

NEXT MEETING

The next meeting of the NEJAC is scheduled for December 9 through 12, 2002 in Baltimore, Maryland. The meeting will focus on pollution prevention. Planned activities include one opportunity for the public to offer comments. More information about the upcoming meeting will be available on the NEJAC's Internet home page at <http://www.epa.gov/compliance/environmentaljustice/index.html> (click on the link to the National Environmental Justice Advisory Council) or by telephone on EPA's toll-free environmental justice hotline at 1 (800) 962-6215.

**CHAPTER ONE
MEETING
OF THE
EXECUTIVE COUNCIL**

1.0 INTRODUCTION

The sixteenth meeting of the Executive Council of the National Environmental Justice Advisory Council (NEJAC) took place Thursday, December 3 through 6, 2001, in Seattle, Washington. Ms. Peggy Shepard, West Harlem Environmental Action, serves as the newly appointed chair of the Executive Council. Mr. Charles Lee, Associate Director for Policy and Interagency Liaison, U.S., Environmental Protection Agency (EPA) Office of Environmental Justice (OEJ), continues to serve as the Designated Federal Officer (DFO) for the Executive Council. Exhibit 1-1 presents a list of members of the Executive Council who were present and identifies those members who were unable to attend. Approximately 300 people attended the meeting.

On December 5, 2001, each member of the Executive Council who was present on that day participated in the deliberations of the NEJAC subcommittees. Chapters Three through Seven of this meeting summary describe those deliberations. In addition, the Executive Council hosted one public comment period on the evening of December 4, 2001, as well as participated in a "virtual tour" of environmental justice sites in EPA Region 10 on December 3, 2001. Approximately 30 people offered comments during the public comment session. Chapter Two presents a summary of the public comments offered and the presentations made during the virtual tour.

This chapter, which provides a summary of the deliberations of the Executive Council, is organized in six sections, including this *Introduction*. Section 2.0, *Remarks*, summarizes the remarks offered by various speakers. Section 3.0, *Discussion of the Relationship Between Water Quality, Fish Consumption, and Environmental Justice*, provides a summary of the testimony provided by the Fish Consumption Work Group of the NEJAC and describes the recommendations discussed by the members of the work group and the members of the Executive Council. Section 4.0, *Draft Strategic Plan of the NEJAC*, presents a summary of the discussions of the members of the Executive Council about matters related to the NEJAC strategic plan. Section 5.0, *Presentations and Reports*, provides summaries of reports and presentations made to the Executive Council on various other topics. Section 6.0, *Miscellaneous Business*, presents summaries of

Exhibit 1-1

EXECUTIVE COUNCIL

**Members Who Attended the Meeting
December 3 through December 6, 2001**

**Ms. Peggy Shepard, Chair
Mr. Charles Lee, DFO**

Mr. Larry Charles
Ms. Veronica Eady
Ms. Anna Frazier**
Ms. Eileen Guana
Dr. Richard Gragg, III
Dr. Michael Gelobter*
Mr. Robert Harris*
Ms. Savonala "Savi" Horne
Ms. Annabelle Jaramillo
Ms. Mary Nelson
Dr. Graciela Ramirez-Toro
Ms. Jane Stahl
Mr. Dean Suagee
Ms. Wilma Subra
Ms. Jana Walker
Mr. Kenneth Warren

**List of Members
Who Were Unable To Attend**

Ms. Rose Augustine
Mr. Fernando Cuevas
Ms. Jennifer Hill-Kelley
Mr. Harold Mitchell
Mr. David Moore
Mr. Alberto Saldamondo
Ms. Pat Wood
Mr. Tseming Yang

*Attended December 3 and 4, 2001 only

**Attended December 4 and 6, 2001 only

discussions by the members of the Executive Council of other items before the council, including recognition of those members whose terms were soon to expire.

Chapter Two of this report presents a summary of the virtual tour and public comment sessions held December 3 and 4, 2001. Chapters Three through Seven of this report present summaries of the deliberations of each of the subcommittees that met

on December 5, 2001. Appendix A presents a list of the proposed revisions of the draft Fish Consumption Report and recommendations proposed for additions to it.

2.0 REMARKS

This section summarizes the remarks of the Deputy Regional Administrator of EPA Region 10 and representatives of local community organizations and the Washington State legislature. Exhibit 1-2 provides a copy of the letter sent by Washington Governor Gary Locke to the NEJAC.

2.1 Remarks of the Deputy Regional Administrator, U.S. Environmental Protection Agency Region 10

Mr. Ron Kreizenbeck, Deputy Regional Administrator, EPA Region 10, welcomed the members of the NEJAC, commenting on the appropriateness of the selection of Region 10 to host the current meeting, with its focus on subsistence fish consumption, water quality, and environmental justice. He explained that EPA Region 10, which includes the states of Washington, Oregon, Idaho, and Alaska, is home to many diverse, low-income communities, communities of color, and more than 270 Native American tribes and Alaskan Native villages. Many of those communities and tribes subsist on fish, plants, and wildlife, he said, and the harvesting, preparation, and consumption of wild species is prevalent, as well as fundamental to the heritage and traditions of their cultures. Mr. Kreizenbeck stressed that the degradation of habitats and the depletion of resources threatens the very way of life of those communities and tribes.

Mr. Kreizenbeck also pointed out that, for many such communities, there is no practicable alternative to the resources of the land. Therefore, he continued, it is not feasible to switch to or substitute other food resources if the resources of their land are contaminated. Moreover, he stated, for the communities of concern, to abstain from consumption of such resources is unimaginable for cultural, traditional, or religious reasons. A subsistence lifestyle, he stressed, is more than simply a tradition — it is fundamental to the very concept of self-determination.

Continuing, Mr. Kreizenbeck stated that issues of environmental justice arise during the everyday work at EPA Region 10, as the Agency issues and reviews permits, reviews and approves water quality standards, works on environmental impact statements, performs risk assessments, and

develops monitoring plans. Addressing subsistence issues as the Agency pursues those activities is necessary to ensure that all communities receive equal environmental protection, he said. Lacking equal environmental protection for all, regardless of race, income, culture, or ethnicity, he declared, there can be no environmental justice.

2.2 Remarks of Local Elected Officials, Community Members, and Tribal Leaders

Ms. Rosa Franklin, State Senator, Washington State Legislature and former member of the NEJAC, commented on the timeliness of the current meeting of the NEJAC, held to discuss the relationship between among water quality, fish consumption, and environmental justice. While contaminated air and toxic streams affect all citizens, she continued, the changing demographics in the state of Washington and the Pacific Northwest have brought a new urgency to the issue of fish consumption. Therefore, she said, there is an urgent need in the region to further identify and quantify the types and magnitudes of risks to communities and tribes that subsist on wild fish, plants, and other wildlife. Ms. Franklin stressed that the activities of the NEJAC could have a long-term effect on the health of those communities.

Ms. Velma Veloria, State Representative, Washington State Legislature and former member of the NEJAC, noted that the convening of the NEJAC in the state of Washington to discuss this issue of fish consumption and environmental justice reaffirmed that the quality of salmon and fish is a concern not only of the fishing industry, but also of tribes and other minority populations.

Ms. Veloria informed the members of the NEJAC that the state of Washington had done much to ensure that its water is clean and that fish remain healthy. She explained that, in 1994, she, Ms. Franklin, and several other legislators had introduced a bill before the state legislature that requested that the Washington Department of Ecology and the Washington Department of Health jointly prepare a report on the environmental risks that threaten low-income and minority groups. She noted that the initial funding to support the work had been obtained. Ms. Veloria commented that the victory had been “an incredible first step” in addressing the disproportionate adverse effects of hazardous and solid waste sites on low-income communities and peoples of color.

GARY LOCKE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR
P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 753-6700 • www.governor.wa.gov

Greetings from the Governor
December 3, 2001

As governor of the state of Washington, I am pleased to welcome you to the 17th meeting of the National Environmental Justice Advisory Council (NEJAC).

Your visit will facilitate the exchange of valuable ideas and information among stakeholder groups represented on the NEJAC and the general public. The policy question being considered, "What is the relationship between water quality, fish consumption, and environmental justice?" is especially important to the citizens of Washington State.

While you are here, I hope you will take some time to enjoy the tremendous charm and beauty of the Evergreen State. You will find an extraordinary array of attractions in and around Seattle to help make your visit a memorable one.

Best wishes for a successful meeting and an enjoyable stay in Washington!

Sincerely,

Gary Locke
Governor

In 1997, Ms. Veloria continued, the legislature worked to incorporate environmental health into the state's overall public health improvement plan. That effort, she explained, had allowed the Washington Department of Health to consider environmental health risks to communities when performing assessments of public health. She added that, in that same year, legislation had been enacted that reformed the way in which the work at clean-up sites is taxed.

Ms. Veloria explained that, before the legislation was passed, the owner of a cleanup site was taxed at a particular rate if the owner cleaned up the site voluntarily, but was taxed at a lower rate if the owner waited until the Washington Department of Ecology formally placed the site on a list of sites that required cleanup. Such a tax system, she pointed out, encouraged owners to delay cleanup, thereby increasing the potential that contamination from the sites would spread. By changing the system to include a uniform tax for cleanups, she added, the legislature removed site owners' incentive to delay cleanup.

Continuing, Ms. Veloria stated that, in 1998, the Washington state legislature enacted legislation that requested that the Washington Department of Health investigate the health effects of noise, particularly in the vicinity of Washington's Seattle-Tacoma International Airport (SEATAC) and review existing studies of noise pollution to evaluate whether disadvantaged groups are subject to disproportionately high levels of exposure to unhealthy noise pollution. Further, she continued, in early 2001, the legislature's Agriculture and Ecology Committee conducted a hearing on proposed legislation that would require that the public be notified of releases of hazardous substances. Specifically, she explained, notices would be mailed to residents, land owners, and businesses located within one mile of a facility involved in such a release and would provide detailed information about the chemicals involved, the address of the facility, and the date of the release. While the legislation has not yet been enacted, she added, it is to be reintroduced in 2002.

Mr. Moses Squeochs, Yakama Nation and member of the NEJAC Indigenous Peoples Subcommittee, observed that, while he appreciates the responsibility and effort of the NEJAC, he is troubled that such an "extra effort" is necessary to enforce legislation that has been enacted by the Congress of the United States. For example, he pointed out, federal law requires that federal agencies identify the need to ensure the protection of populations that exhibit

patterns of subsistence consumption of fish and wildlife and to assist in providing such protection. Federal law also requires that federal agencies collect, maintain, and analyze information about the consumption patterns of populations that rely primarily on fish or wildlife for subsistence, added Mr. Squeochs. He stressed that EPA has been charged with implementation of federal environmental statutes. He asked why it has been so difficult for EPA to carry out that responsibility.

Continuing, Mr. Squeochs explained that he represents the 14 Confederated Tribes and Bands of the Yakama Nation that reside in the interior mid-Columbia River basin. After reciting the names of the 14 tribes and bands, he explained that each of those communities, along with many other indigenous communities, continue to maintain a subsistence, or "hunter-gatherer," way of life and sustain the customs and practices of their valuable and rich heritage. He also commented that there is a renewed and important effort among indigenous peoples to restore their language and preserve their culture, which reflects and maintains a deep connection to the Earth, "their Mother."

Mr. Squeochs shared his remembrance of the first time he had recited as a small child in school the words of the Pledge of Allegiance "...with liberty and justice for all." Ironically, he continued, more than 50 years later, he finds himself participating as a member of the Indigenous Peoples Subcommittee in an attempt to make such justice a reality for all and to achieve some sense of fairness and equality. In closing, Mr. Squeochs, stated his hope that the NEJAC would continue to make history in the search for justice.

Ms. Yolanda Sinde, Community Coalition for Environmental Justice, also welcomed the members of the NEJAC to the city of Seattle. She first noted that the Community Coalition for Environmental Justice, a multiracial organization, had been the first official nonprofit environmental justice group formed in the Seattle area. She then invited the members of the NEJAC to attend a community reception to be held that evening.

Ms. Sinde then briefly expressed her concern about rumors that the NEJAC might be dissolved. She stressed the importance of maintaining the connection the NEJAC provides between EPA and environmental justice communities and asked that representatives of EPA or members of the NEJAC address the concern during the meeting.

3.0 POLICY DIALOGUE ABOUT THE RELATIONSHIP BETWEEN WATER QUALITY, FISH CONSUMPTION, AND ENVIRONMENTAL JUSTICE

The NEJAC, in its continuing efforts to provide independent advice to the Administrator of EPA in areas related to environmental justice, focused its sixteenth meeting on the relationship between water quality, fish consumption, and environmental justice. On Tuesday, December 4, the members of the NEJAC heard a panel presentation by the members of the Fish Consumption Work Group of the NEJAC. The NEJAC had established the work group to assist in developing a report and recommendations on this issue.

Ms. Annabelle Jaramillo, Benton County Board of Commissioners and chair of the Air and Water Subcommittee, served as facilitator during the policy dialogue. She began the discussion by reminding the members of the NEJAC of the purpose of the current meeting of the NEJAC. She explained that the issue that the NEJAC had been asked to consider and provide recommendations on was:

“How should EPA improve the quality, quantity, and integrity of our Nation’s aquatic ecosystems in order to protect the health and safety of people consuming or using fish, aquatic plants, and wildlife?”

Ms. Jaramillo then stated that, in preparation for the meeting, a report, Fish Consumption Report: Pre-meeting Discussion Draft, had been developed to provide a context for the discussions. The Fish Consumption Work Group, she continued, had prepared the report, with the assistance of Ms. Catherine O’Neill, Associate Professor, Seattle University School of Law.

3.1 Overview of the Fish Consumption Report

Ms. Jana Walker, Law Offices of Jana Walker and vice-chair of the Indigenous Peoples Subcommittee, provided an overview of the fish consumption report. Ms. Walker first explained that the report is a discussion draft intended to promote open dialogue among the members of the NEJAC, as well as to encourage public comment on its content. She stated that the work group would welcome comments on the draft report through January 2002.

Ms. Walker reported that the draft report includes a background section and four chapters. The background section explores the reasons contamination of fish and aquatic ecosystems



Members of the NEJAC discuss presentations made by the members of the NEJAC Fish Consumption Work Group.

causes concern about environmental justice. It does so, she continued, through the perspectives of real people who have suffered the harmful effects of such contamination. She explained that, while there are important differences among affected groups, communities of color, low-income communities, and tribes generally consume greater quantities of fish than do other segments of the population and depend on healthy fish and aquatic ecosystems to a greater extent and in different ways than does the general population. Therefore, she continued, these communities and tribes are forced to bear a disproportionate share of the environmental effects that result from pollution of the waters.

Continuing, Ms. Walker explained that fish not caught commercially are a healthy, cheap, and readily available source of protein in the diet. Persons who subsist chiefly or solely on such fish therefore are more likely to be members of communities of color, low-income communities, or tribes. Affected groups also may consume or use fish, aquatic plants, and wildlife for cultural, traditional, or religious reasons. They also may eat different parts of the fish than do other segments of the population, and they may prepare the fish in different ways, as well. Conventional understandings about catching, harvesting, preparing, and eating fish do not capture such practices adequately.

Ms. Walker then pointed out that communities of color, low-income communities, and tribes also may be exposed to different, and often numerous, types of exposures to environmental pollutants than is the case among the general population. Many toxins and toxic chemicals persist in the environment for very long periods of time and bioaccumulate in fish, plants, wildlife, and ultimately the people who eat them, she explained. Although the specific health risks posed by such multiple exposures are unknown, she said, it has been documented that

many of the chemicals of concern are highly toxic to humans. Such chemicals, continued Ms. Walker, can cause reproductive, neurological, and endocrine disorders; cancer; and negative developmental effects in children.

Ms. Walker stressed that "healthy waters and watersheds mean healthy people." She acknowledged that EPA has made progress in addressing water pollution over the past 30 years, but declared that much more must be done because, today, only 60 percent of the nation's lakes, rivers, and estuaries are clean enough to be used for fishing and swimming. Continuing, Ms. Walker pointed out that 40 percent of assessed waters are degraded to the point that they no longer support their designated uses. Further, some 300,000 miles of rivers and streams and more than 5 million acres of lakes do not meet water quality goals, she added. Many of those waters are not safe for swimming and cannot support healthy fish, she said.

Ms. Walker then reported that Chapter 1 of the draft fish consumption report evaluates the tools that EPA uses to define, evaluate, and respond to the adverse health effects of exposure to contaminated aquatic ecosystems. She explained that fish consumption is the primary route of exposure to many toxic contaminants. To establish environmental standards, EPA uses exposure data related to the ingestion of contaminated fish, she said. To develop those national water quality standards and criteria, she went on, certain assumptions must be made about how much fish people eat, which parts of the fish they eat, and which people are eating those fish. However, such exposure assumptions often reflect only the habits of the general population; the increased potential for exposure among populations that consume larger quantities of fish, such as communities of color, low-income communities, and tribes, are not considered.

Providing an example, Ms. Walker stated that, until recently, federal water quality standards were based on the exposure assumption that the average person consumes only 6.5 grams per day (g/day) of fish. However, studies of rates of consumption of fish in tribal, low-income, and minority communities have revealed rates that are more than 100 times the value assumed by EPA. Ms. Walker added that the draft report provides ample evidence that ethnic minorities and tribes are more likely to eat the whole fish, including the skin, head, and tail, and that those parts contain higher levels of pollutants than the filet, which is the part of the fish most likely to be consumed by individuals in the general population.

Continuing, Ms. Walker said that Chapter 1 of the report also discusses the issues related to aggregate or multiple exposures and cumulative risks, noting that current EPA methodologies proceed as if humans are exposed to only one contaminant at a time.

In summary, Chapter 1 of the fish consumption report addresses issues related to assumptions made by EPA about patterns of fish consumption, said Ms. Walker. Exposure assumptions must be revised to reflect the lives and circumstances of all people, including those subject to high levels of exposure, she emphasized.

Chapter 2 of the fish consumption report focuses on EPA's risk reduction strategies that require risk producers, usually the polluters, to clean up, reduce, or prevent environmental contamination, Ms. Walker then reported. The chapter also examines existing legal authorities under federal environmental statutes that might be exercised more effectively to address contaminants of concern and to protect the health of people who consume large quantities of fish, she added.

Chapter 3 of the fish consumption report, continued Ms. Walker, examines EPA's risk avoidance strategies, under which affected communities and tribes are asked to change their practices to avoid exposure to harmful contaminants. She explained that the chapter examines the role fish consumption advisories should play in protecting the health of people who consume or use fish and concludes that the role of such an advisory varies, depending on the community or tribe affected by it. Chapter 3 also identifies several significant concerns related to reliance on fish advisories, she said.

Ms. Walker then stated that Chapter 4 of the fish consumption report addresses considerations unique to the 556 federally recognized tribes, including 229 Alaskan Native villages. She explained that, while tribes share many of the concerns described in the preceding chapters, their unique political and legal status distinguishes them from all other affected groups in many ways and warrants separate treatment in the report. Unlike other affected groups, tribes also are government entities and regulators that exercise broad inherent sovereignty over their members, territories, and resources, she said. Chapter 4 also discusses the unique susceptibilities of tribes to the adverse effects of pollution on health.

In closing, Ms. Walker stressed that the fish consumption report is not intended to ignore or belittle the progress EPA has made in addressing

water pollution. However, she stated, it is clear that many obligations remain unfulfilled and much work remains to be done. As the members of the NEJAC continue their discussions over the coming months, she suggested, their challenge will be to develop meaningful advice about the approach EPA should take in the effort to improve the quality of aquatic ecosystems, thereby protecting the health of all people who consume fish, especially highly exposed communities and tribes.

In response to the overview of the fish consumption report provided by Ms. Walker, Mr. Jim Hanlon, EPA Office of Water (OW) Office of Science and Technology recognized the high quality of the work produced by the work group. He then expressed his belief that the report will be important to EPA as the Agency works to address issues related to fish contamination. He remarked that EPA had made great strides in improving water quality over the past 10 years, but acknowledged that much work remains to be done. Mr. Hanlon reminded the audience that the objectives of EPA OW are to ensure that water is safe to drink; that water resources are safe for aquatic recreation; that fish are safe to eat; and that our water resources provide a balanced, high-quality system that supports aquatic life.

Mr. Hanlon then stated that, only 10 years earlier, fewer than five states in the country used risk-based methodologies to develop fish consumption advisories. However, he continued, through cooperation with the states, EPA OW had developed a set of guidelines that states used in developing the fish consumption advisories that are now in place. The guidelines include guidance on sampling methodologies, analytical methodologies of laboratories, risk management, and risk communication. Mr. Hanlon then reported that more than 40 states now use risk-based methodologies to develop fish consumption advisories for their populations.

In conjunction with the Minnesota Department of Health, Mr. Hanlon continued, EPA recently had sponsored a conference in Chicago, Illinois, that was attended by more than 400 people, representing all 50 states and more than 50 tribal entities. The focus of the conference was risk communication related to fish consumption. The proceedings of that conference had been released, he said, and would be discussed during the meeting of the Air and Water Subcommittee to be held on December 5, 2001. Mr. Hanlon added that he also would discuss with the members of the Air and Water Subcommittee the further actions that the agency is considering. Those actions would focus on the

development of additional tools to assist states in improving their risk communication capabilities.

Responding to Ms. Walker's comments about outdated methodology for the development of human health criteria, Mr. Hanlon stated that EPA recently had replaced a document that had been in use since the early 1980s with updated information that is based on available statistical information about average consumption levels for general populations, sport fishers, and subsistence populations. He noted that the release of the updated information represented an important transition from the use of historical bioconcentration factors to the use of bioaccumulation factors in the derivation of water quality criteria. The new approach has the effect of lowering the acceptable criteria by a factor of as much as 100. Mr. Hanlon added that the new methodology also recognizes, for the first time, the concept of relative source contribution. That is, he explained, individuals do not receive their entire body burden of a particular toxic pollutant from consumption of fish tissue alone, but rather from a combination of exposure routes, all of which must be considered.

Continuing his discussion of the activities of EPA OW, Mr. Hanlon stated that the office, in cooperation with the U.S. Department of Health and Human Services (HHS), recently completed its second mailing to health care providers. Through the mailing, he explained, packages of information about the contamination of fish was disseminated to more than 135,000 health care providers across the United States, including pediatricians, obstetricians, gynecologists, family physicians, physician's assistants, and midwives. Mr. Hanlon then stated that EPA does not believe that consumption advisories are the solution to problems related to the contamination of fish. Rather, he said, such advisories are temporary measures taken to advise the public about health risks that may be associated with the consumption of contaminated fish.

Mr. Hanlon then reported that EPA's Total Maximum Daily Load (TMDL) Program is making "giant steps forward." Exhibit 1-3 presents the definition of TMDL. During 2002, he continued, some 2,000 TMDL projects will be underway nationwide. He added that approximately 33 states operate under consent agreements or court orders that require that the states and EPA step forward and complete development schedules reflecting the priority ranking of each pollutant.

Concluding his remarks, Mr. Hanlon emphasized that the "Achilles heel" of the national water program

continues to be the lack of robust information or data about watersheds throughout the United States. Referring to Ms. Walker's comment that 40 percent of assessed water bodies do not meet standards for their designated uses, Mr. Hanlon pointed out that only 20 to 25 percent of the nation's water bodies have been assessed.

Ms. Shepard also offered several comments about the information presented in the draft fish consumption report. She stated that in her own state, New York, many groups have been in consultation with the state Department of Environmental Conservation about fish advisories for the Hudson River, in which contamination has been known to exist for many years. However, she pointed out, authorities have posted no fish consumption advisories related to the river. Ms. Shepard said that, along the Hudson River, subsistence fishers are selling fish to local fish markets. EPA, she suggested, should find a way to mandate that fish advisories be posted. She suggested further that a public information campaign be mounted to reach affected communities. Ms. Shepard then stated that the glaring disparity between how water quality standards, enforcement, and cleanup are implemented confirms continuing unequal enforcement in communities that are among the most highly exposed to contaminants — communities of color, low-income communities, and tribes. She then stated her belief that the information presented in the draft report reinforces recognition of the need for accelerated investigation projects and protocols for determining the cumulative effects of multiple exposures.

Finally, Ms. Shepard commented that financial resources should be made available to affected groups so that they can educate their own communities in their own languages and in a manner that reflects their own cultures and customs.

3.2 Fish Consumption, Research Methods, and Approaches to Risk Assessment

Dr. Patrick West, Professor Emeritus, University of Michigan, provided a detailed summary of information about research methods and approaches to risk assessment that agencies use to define, evaluate, and respond to the adverse health effects caused by contamination of aquatic environments. Chapter 1 of the draft fish consumption report presents that information.

Dr. West stated that the contamination of fish, aquatic plants, and wildlife is an especially pressing concern for many communities of color, low-income

communities, and tribes, whose consumption and use practices differ, often profoundly so, from those of the general population. He explained that members of those communities often consume far greater quantities of fish, aquatic plants, and wildlife than does the general population. Further, they consume and use different species and parts than the general population, and they employ culturally different methods of procuring and preparing the fish, aquatic plants, and wildlife that they use. Therefore, continued Dr. West, communities of color, low-income communities, and tribes are among the segments of the population that are most highly exposed to contaminants in the fish, plants, wildlife, and aquatic environment. He explained that available literature documents that the 95th percentile fish consumption rates for various affected communities and tribes range from 225 g/day to 489 g/day. Yet, he pointed out, EPA regularly and routinely approves a human consumption rate of 6.5 g/day in risk assessment methodologies.

Dr. West then discussed policy related to fish consumption in a legal and cultural context. He stated that the contamination of fish, aquatic plants, and wildlife also is troubling to many communities of color, low-income communities, and tribes because such groups consume and use fish, aquatic plants, and wildlife in different cultural, traditional, religious, historical, economic, and legal contexts than what agencies have defined as the general population. For example, tribes have rights guaranteed by treaty to take fish. The unique legal obligations established under such treaties are relevant to EPA's decisions that affect the health of the fish and the fishery resource, he said.

Dr. West explained that fish consumption and use of fish often is prescribed by the culture and tied closely to the collective and individual identity of a community or tribe. The existence of such different contexts is demonstrated abundantly by both testimonial evidence and study in social science, he continued. For the reasons he had identified, said Dr. West, current fish consumption practices are, in an important sense, indispensable for many communities and tribes.

Dr. West then discussed the possibility of a "suppression effect" related to fish consumption. He explained that a suppression effect occurs when a fish consumption rate for a given group reflects a current level of consumption that is diminished artificially from the appropriate baseline level for the group. Suppression effects may occur because of contamination or fear of consuming contaminated items (members of a group consume fewer fish than

they naturally would because they fear that the fish are contaminated) or depletion of resources (members of a group consume fewer fish than they naturally would because fewer fish are available for consumption), he said. He explained that, when standards are based on fish consumption rates that are not adjusted for suppressed consumption, the standards initiate a “downward spiral,” with more contamination permitted, leading to a greater suppression effect, and so on.

Continuing, Dr. West stated that current risk assessment methods do not account adequately for susceptibilities and co-risk factors that affect individual responses to environmental contaminants. Co-risk factors include underlying health status, quality of diet, genetics, socioeconomic status, access to health care, and other factors. For example, he said, low-income socioeconomic status may combine with and intensify health effects of consuming contaminated fish in environmental justice communities.

Dr. West then stated that current risk assessment methods also evaluate risks as if humans were exposed to a single contaminant at a time by a single route of exposure. He explained that members of environmental justice communities, however, often are exposed to numerous contaminants, at a given time or in succession, often by more than one route of exposure. For example, he stated, the 13 Confederated Bands of the Yakama Nation fish in the Columbia River; more than 100 contaminants have been identified in the tissues of fish taken from that river.

Dr. West then observed that the efforts of affected communities and tribes are integral in producing relevant, accurate, scientifically defensible data. He said that affected communities and tribes therefore must be involved at every stage of research on the issues he had discussed, from identifying research needs to designing research methods; interpreting the policy implications of the finding of such research; and determining the importance of the research to the agency’s risk assessment, management, remediation, and emission permitting processes.

Continuing his remarks, Dr. West stated that environmental justice communities also have a broader policy role to play beyond the arena of research. He stated that tribal populations throughout the country have challenged the NEJAC and EPA to “walk in their moccasins” — to see and experience the importance of fish consumption and related use of subsistence resources taken from the

waters and the land and the harsh effects of pollution and pollution policy as the tribes themselves experience them. The same ideal, Dr. West added, holds true for other environmental justice communities and cultures.

Dr. West then stated that, at the recent conference in Chicago that Mr. Hanlon had mentioned, he had heard members of tribes and other environmental justice communities repeatedly urge EPA to take a broader, more holistic view that goes beyond the very important, but very short-term, narrow, and focused, policy of exclusive reliance on advisories.

Dr. West then asked the members of the NEJAC if they would be willing to “walk in the moccasins” of affected communities and, with renewed determination, take on the difficult issues of prevention and remediation.

3.3 Fish Consumption and the Exercise of Existing Legal Authorities

Ms. Walker provided a summary of the information presented in Chapter 2 of the fish consumption report. She stated that approximately 40 percent of assessed waters in the United States do not support use for fishing or swimming. She added that some 10 percent by volume of all sediments under waters in the United States are contaminated heavily; the list of sediments in surface waters that require cleanup is long, she said, and the number of fish consumption advisories rises each year. Ms. Walker explained that, because people of color, low-income people, and American Indians and Alaskan Natives are disproportionately among the populations that experience the greatest exposure to contamination, any lapses in the efforts of agencies to prevent, reduce, clean up, and restore contaminated aquatic environments will impose a disproportionate burden on those affected groups. Referring to the regulation of mercury emissions, Ms. Walker noted her understanding that, in the near future, EPA was to address rule-making for the regulation of mercury emissions from institutional, industrial, and commercial boilers. She stated that such regulation is needed.

Continuing, Ms. Walker stated that a rule regulating mercury emissions from coal-fired power plants might not be proposed until December 2003. Meanwhile, she pointed out, coal-fired power plants are the single largest source of air emissions of mercury in the country. She then stated that a rule regulating emissions of mercury from chloroalkaline plants is needed. Although only approximately one dozen such plants are located in the United States,

she explained, each plant is a very significant source of such emissions. In some cases, a plant may be the most significant local source of emissions of mercury. She then cited as an example two chloroalkaline plants in Louisiana that contribute more mercury emissions than all the coal-fired power plants in the state combined.

Continuing her presentation, Ms. Walker stated that EPA's guidance documents and standards consider a higher level of cancer risk to be "acceptable" for "more highly exposed subgroups" than for the general population. That standard is inequitable and deeply troubling, as a matter of environmental justice, because it is people of color, low-income people, and American Indians and Alaskan Natives who make up the "more highly exposed subgroups," she said.

3.4 Fish and Wildlife Consumption Advisories

Ms. Marianne Yamaguchi Santa Monica Bay Restoration Project provided a summary of the information about fish and wildlife consumption advisories that Chapter 3 of the fish consumption report presents. Ms. Yamaguchi pointed out that fish advisories are just one component of a comprehensive strategy for the management of health risks. She also noted that fish advisories are a strategy for risk avoidance rather than risk reduction. She explained that, typically, advisories are intended to provide information about the nature and the extent of contamination and its potential adverse effects on health. Their purpose, she noted, is to encourage consumers to avoid consuming contaminated species and to suggest alternative ways in which people could continue to eat fish. However, she added, fish advisories are not effective in many environmental justice communities because fish substitutes are not readily available or because changes in fish consumption practices may cause great anguish or cultural harm. Therefore, said Ms. Yamaguchi, a comprehensive strategy for the control of health risks should go beyond the issuance of fish advisories.

Continuing, Ms. Yamaguchi observed that, while advisories are useful, if they are to be effective, they must be tailored to the specific locations and communities of concern. She pointed out that there is no "one-size-fits-all" strategy and suggested that attempts to ensure consistency across broad regions or among population groups may not be useful or appropriate.

She stated that affected communities and tribes play an integral role in relevant, appropriate, and effective

risk communication efforts. Affected communities and tribes, she continued, therefore must be involved as partners, or in the case of tribal governments, as "co-managers," at every stage of the communication process — in identifying needs and priorities, in developing content for advisories that is appropriate for the groups of concern, in helping to prepare translations and communicate the message, and in helping to interpret communities' responses to risk management efforts.

3.5 Fish Consumption Concerns Among American Indian Tribes and Alaskan Native Villagers

Mr. Dean Suagee, Vermont Law School discussed information presented in Chapter 4 of the fish consumption report. Mr. Suagee stated that the political and legal status of tribes is unique among affected groups and so warrants separate treatment. As sovereign entities, federally recognized tribes maintain a government-to-government relationship with the federal government and its agencies, he explained. Continuing, Mr. Suagee stated that the unique legal status of tribes includes a trust responsibility on the part of the federal government and, for many tribes, treaty rights, as well. He then remarked that EPA must demonstrate respect for the unique status of Native American tribes and Alaskan Native villages.

Mr. Suagee explained further that, in general, there is no environmental protection infrastructure in Indian country because Indian country had been overlooked during the development of the first federal environmental laws. He stated that, because tribes do not have the same kinds of resources as states have to devote to program development, tribes are for the most part dependent on EPA and other federal agencies, such as the Bureau of Indian Affairs (BIA), the Indian Health Service (IHS), and the U.S. Department of Housing and Urban Development (HUD).

Turning to the role of tribes as regulators in protecting the environment, Mr. Suagee stated that, although tribal governments and EPA are responsible for implementing water quality standards in Indian Country and on Alaskan Native lands, only 16 of the 565 federally recognized tribes and Alaskan Native villages have water quality standards that have been promulgated or approved by EPA. Therefore, continued Mr. Suagee, there are considerable gaps in water quality standards in Indian country, as well as gaps related to other statutes.

Mr. Suagee then noted that EPA had been engaged for some two and one-half years in consultations with tribes related to EPA's proposal to promulgate core federal water quality standards for Indian country. The proposed rule finally was signed on January 19, 2001, he said. However, he continued, the rule became subject to the moratorium on new rules and was "passed back" to EPA by Office of Management and Budget (OMB). Mr. Suagee then explained that, during the November 2001 meeting of the Tribal Caucus of the Tribal Operations Committee (TOC) in Albuquerque, New Mexico, he had been told that OMB provided two suggested options when the rule was returned to EPA. He then noted that he was unsure of the current status of the rule. He remarked, however, that the Tribal Caucus was near consensus that EPA should move forward to promulgate the current rule as a proposed rule.

Mr. Suagee also stated that, because of the historical difference in the way Alaskan Natives have been treated, the implications of the Alaska Native Claims Settlement Act and case law interpreting that act, and the use of the term "reservation" in the provisions of the Clean Water Act and the Clear Air Act that authorize treatment of tribes like states, the solutions for Indian country that are available in the lower 48 states are not available in Alaska.

Mr. Suagee then stated that EPA also should explore the development of more appropriate designated uses for culturally important water bodies in Alaska than those currently in place. Although those issues had not yet been included in the draft fish consumption report, suggested Mr. Suagee, the work group and the NEJAC should revise the report to include a recommendation that is specific to Alaskan Natives.

The members of the Executive Council then discussed the draft fish consumption report and developed proposed revisions and additional recommendations. Appendix A presents a list of those proposed revisions and additional recommendations.

4.0 DRAFT STRATEGIC PLAN OF THE NEJAC

Ms. Shepard presented the strategic plan of the NEJAC to the members of the Executive Council. She explained that the strategic plan incorporates the issues raised and conclusions reached at the August 2001 meeting of the Executive Council, held in Washington, D.C. Ms. Shepard advised that the introduction section of the strategic plan will be revised to reflect the Executive Council's

appreciation for the efforts of past NEJAC members, especially the efforts of those who had served as founding members. In addition, these revisions will note the past contributions of NEJAC in advancing policy development within the EPA related to environmental justice.

4.1 Goals and Objectives

Over the previous year, Ms. Shephard noted, the NEJAC had been reviewing its role and discussing how the NEJAC could best promote environmental justice and fulfill the mission set forth in its charter. In general, said Ms. Shepard, the members of the NEJAC had concluded that they can better fulfill the mission of their charter by refocusing their own processes and work products, while redirecting the site-specific issues to the appropriate EPA regional offices that have both the responsibility to address such issues and the authority to do so. She stressed that, during its meetings, the NEJAC would continue to solicit public comment on policy issues before the NEJAC.

Ms. Shepard then read the revised mission statement for the NEJAC that is presented in the strategic plan. The mission statement reads as follows:

"The NEJAC is a federal advisory committee that provides timely, relevant, cogent, and independent advice to the EPA Administrator on matters of environmental justice to ensure the fair treatment of all peoples, including minority, low-income, and indigenous populations and federally recognized tribes, and often overlooked populations, such as agricultural workers."

Continuing, Ms. Shepard explained that the Strategic Plan outlines the strategy of the NEJAC to (1) redesign its activities to better perform the advisory role its charter establishes; (2) collaborate with EPA to provide regional and other alternative mechanisms other than meetings of the NEJAC, such as regional listening sessions, through which communities can bring site-specific issues to the attention of EPA; and (3) develop, through a deliberative process that involves all stakeholders, an effective work product grounded in issues of importance to environmental justice communities. She added that the strategic plan is to guide the work of the NEJAC through September 27, 2003.

Ms. Shepard stressed that disproportionate adverse effects on communities of color, low-income communities, and tribes are at the very heart of

environmental justice. They also, she continued, are the impetus of the grassroots activism that prompted the development of several key products, including President Clinton's Executive Order 12898 on Environmental Justice and the subsequent formation of the NEJAC, along with numerous other products over the years. The NEJAC, she declared, will continue to make strong recommendations to EPA on the conduct of regional listening sessions and other mechanisms that will take place in the coming year, as well as recommendations on follow-up to those sessions.

Ms. Shepard then briefly outlined the six goals for the Executive Council of the NEJAC and its subcommittees, which, she noted, are presented in the strategic plan. Those goals, she said, will guide the NEJAC in accomplishing its mission.

First, Ms. Shepard explained, a work product goal was developed to identify several methods of providing cogent, timely, relevant, and effective advice, both formal and informal, to the EPA Administrator. Second, the strategic plan sets forth a process goal aimed at developing and implementing a deliberative, consultative, and collaborative process on which the NEJAC can base its advice to the EPA Administrator, she said. A third goal is the public participation and public input goal that outlines how the NEJAC actively will employ mechanisms for soliciting the views of minority, low-income, indigenous, and agricultural worker populations and of federally recognized tribes, she continued. She explained that the third goal addresses (1) public participation at meetings of the NEJAC, (2) the incorporation of community concerns and issues into the policy dialogue of the NEJAC, and (3) public participation at the regional level.

Continuing, Ms. Shepard stated that a fourth goal included in the strategic plan is an organizational and procedural goal. She explained that, the purpose of the fourth goal is to obtain better briefings from EPA about its initiatives and activities and to become better able to communicate externally with the larger environmental justice movement, communities, other stakeholders, government and industry. The NEJAC, she said, would request that EPA initiate a review of the NEJAC organizational structure and procedures. Implementation of the initiative will enable the NEJAC to more effectively and efficiently develop advice and render it to the EPA Administrator, she said.

A fifth goal presented in the strategic plan, Ms. Shepard continued, is a communications goal that outlines a communication plan for improving the flow

of information from EPA to the NEJAC and for creating a listserv to enable members of the Executive Council and DFOs to discuss matters properly between meetings of the NEJAC. Last, she said, the strategic plan includes the goal of developing an effective orientation program for new members of the NEJAC and its subcommittees.

Ms. Shepard then publicly thanked Ms. Jaramillo, who chaired the committee that drafted the strategic plan, and the members of the drafting committee, Mr. Kenneth Warren, Wolf, Block, Schorr and Solis-Cohen and member of the Enforcement Subcommittee; Ms. Wilma Subra, Louisiana Environmental Action Now and member of the Health and Research Subcommittee; and Ms. Veronica Eady, Massachusetts Executive Office of Environmental Affairs and chair of the Waste and Facility Siting Subcommittee.

Ms. Jaramillo commented that the development and implementation of the plan would be a dynamic process. That is, she continued, the strategic plan will "grow and move with the times." She also echoed Ms. Shepard's praise for Ms. Subra, Mr. Warren, and Ms. Eady for their hard work in writing the strategic plan.

Ms. Jane Stahl, Connecticut Department of Environmental Protection, stated her belief that the strategic plan would set the stage for a wonderfully productive collaboration between the NEJAC, which was created to help give communities a voice in the world of environmental protection and environmental management, and the organizations and bureaucracies that are supposed to be doing that work on behalf of all communities and constituencies.

The importance of the plan, Ms. Stahl continued, is that it provides the NEJAC and communities with a structure through which they can move forward. Everyone is on the same side, she stressed, but different individuals bring different talents and different views to the table. She stated that all stakeholders must communicate and work with one another, but that they should do so in a structured fashion. In that way, she observed, they will achieve an end result, rather than bringing about increased division and controversy over issues that are important to all stakeholders.

In closing, Ms. Stahl expressed her belief that the organized process presented in the strategic plan would help not only the NEJAC as a group to achieve its goals, but also the communities that the NEJAC serves to accomplish the same outcome.

She added that implementation of the strategic plan also would help EPA move forward in addressing issues that are important to communities that have been “excluded from the table” in the past.

Dr. Graciela Ramirez-Toro, Interamerican University of Puerto Rico and chair of the Puerto Rico Subcommittee, applauded the work of the drafting and writing committee (that developed the draft strategic plan. She then offered several suggestions for revision or clarification of the plan. First, she suggested that the strategic plan include some discussion of the ways in which the work groups will include individuals, such as technical experts, who are not members of the NEJAC. She also suggested that the strategic plan outline at least a general time line and protocol for scheduling conference calls. Finally, Dr. Ramirez-Toro suggested that the strategic plan be revised to identify the role of members who live in a particular region during listening sessions held in that region.

Ms. Savonala “Savi” Horne, Land Loss Prevention Project and chair of the Enforcement Subcommittee, congratulated the members of the Executive Council for dealing with the reality that the NEJAC is a federal advisory committee and therefore must conform to the requirements of the act that governs such a body. She echoed the concern voiced by Dr. Ramirez-Toro that the strategy for and goals of the regional listening sessions should be defined more clearly in the draft strategic plan. In particular, she noted, the plan should describe clearly how comment and advice generated during regional listening sessions would be funneled to the Executive Council of the NEJAC.

Responding to Ms. Horne’s concerns, Ms. Stahl, while noting that she was pleased that the EPA regions have moved forward in accepting the notion of regional listening sessions, expressed agreement that a means of conveying information to the NEJAC should be included in the strategy developed for the regional listening sessions. Ms. Stahl added that the NEJAC must monitor the issues that arise during those sessions so that its members will be cognizant of such issues on a national level, rather than leaving them confined only to a regional level.

Expressing concern that EPA might find it necessary to secure state participation, Ms. Shepard asked Ms. Stahl to discuss her perspective on the role of state governments in the regional listening process. Ms. Stahl responded that she believed that the states would want to participate in the listening sessions. She pointed out that there are issues of environmental justice in all states. The states, she

said, cannot afford to withhold participation. Ms. Stahl then expressed her belief that the listening sessions would prove to be an effective way for EPA to engage the states on a regional basis. She stated further that she hoped that the regional sessions will be conducted in a manner that will be an opportunity for sharing of concerns and of information, rather than an avenue for the “demonization” of state bureaucracies or state environmental agencies.

Mr. Lee warned against the implementation of the regional listening sessions lacking an “action plan” or guidance on the format of the sessions, how the sessions will be evaluated, and how action taken in response to issues raised during the sessions will be measured. He stressed that it is the business of the NEJAC to encourage and advise EPA to ensure that the agency develops a standard operational and procedural process for the regional listening sessions. He suggested that, in the future, NEJAC may, if it chooses, to provide advice and recommendations on regional listening sessions.

Ms. Subra commented that each EPA regional office had provided the drafting and writing committee with a report on the status of the issues on which that region was working. She suggested that the information provided be disseminated to communities in each region so that members of the communities can review the actions of regional offices. Ms. Subra noted that, if repeated on at least an annual basis, such action also could serve as an effective mechanism by which the EPA regional offices can provide information to the NEJAC on the regional issues and initiatives.

Referring to the involvement of the states in the regional listening sessions, Ms. Subra commented that some state agencies perform at a “less-than-appropriate” level. Therefore, she continued, citizens look to the EPA regional office for assistance. Ms. Subra stressed that it is important that both the EPA regional offices and the states attend the listening sessions, so that tasks and responsibilities can be delegated. She added that it will be important that the NEJAC “keep its finger on the pulse,” continuing to be fully cognizant of what issues have been identified, what individual or entity has been assigned to address those issues, and whether the issues are being addressed.

Ms. Eileen Guana, Southwestern University School of Law and vice-chair of the Air and Water Subcommittee, pointed out that the NEJAC does not have oversight authority over the EPA regional offices. However, she added, the NEJAC can work to prompt the establishment of a standard of

accountability for the regions and a voluntary mechanism for informing the NEJAC of activities conducted by the regions.

Mr. Warren pointed out two important themes that he said were apparent in the strategic plan. First, the proposed deliberative process, which intends that the NEJAC focus on delivering work products to EPA that can be integrated into EPA policy and practice, is the most effective way the NEJAC can influence environmental justice, he said. Another key theme of the strategic plan, he continued, is that the proposed processes are collaborative — collaborative processes between the NEJAC and EPA and between the NEJAC and communities are envisioned in the strategic plan, he noted. Mr. Warren also stressed that the development of a communication plan is a key element of the strategic plan. He said that a communication plan that provides for a number of channels of communication with EPA will allow the members of the NEJAC to better understand EPA's actions, in turn allowing the NEJAC to act more effectively to accomplish the mission set forth under its charter.

Ms. Anna Frazier, DINE' CARE and member of the Indigenous Peoples Subcommittee, informed the members of the NEJAC that she had talked with several representatives of grassroots organizations who wish to comment on the draft strategic plan. Those individuals would offer their comments during the public comment period to be held in conjunction with the current meeting of the NEJAC, she reported.

Mr. Robert "Bob" Harris, Pacific Gas and Electric Company and member of the Waste and Facility Siting Subcommittee, stressed that the draft strategic plan establishes a foundation that will allow the NEJAC to have influence nationwide in resolving problems because the plan involves all stakeholders. Mr. Harris commended EPA's regional administrators for their understanding of the importance of the role that they must play in developing and implementing the strategic plan and for the role they will play in bringing together all stakeholders in their regions.

Ms. Shepard then turned to Mr. Lee for remarks about specific plans for implementation of the draft strategic plan.

4.2 Implementation of the Strategic Plan

Mr. Lee first pointed out that the decision to "refocus" the NEJAC did not arise from a discussion that had started six months earlier, but had resulted from discussions that began some five or six years ago.

He then emphasized that the draft strategic plan effectively incorporates community involvement and public participation. For example, he said, the draft fish consumption report is an excellent example of a work product of the NEJAC that was developed through a deliberative process and based on the views of communities about the issues and concerns of importance to those communities. Such processes and products have the potential to translate effectively into true improvements for communities, he stressed.

Mr. Lee then reviewed the NEJAC's schedule for 2002, as set forth on page 12 of the draft strategic plan. He first stated that the Pollution Prevention Work Group was to be established formally in January 2002. Mr. Lee added that Ms. Subra and Mr. Warren were to serve as co-chairs of the work group.

Continuing, Mr. Lee reported that the Fish Consumption Work Group was to make its report and the recommendations associated with it final by March or April 2002. Similarly, he added, the Interagency Environmental Justice Implementation Work Group was to complete its strategies report and recommendations on the same timetable.

Also in April 2002, Mr. Lee continued, OEJ was to provide a document that sets forth uniform procedures for the operation of subcommittees. He explained that the draft strategic plan of the NEJAC identifies five elements that are key to the successful operation of the subcommittees and work groups of the NEJAC: leadership; membership; the role of DFOs; support from and communication with EPA program offices; and development of strategic goals and plans. Recognizing that there are significant differences among the subcommittees of the NEJAC with respect to the five elements of success, OEJ, in consultation with the NEJAC, will develop procedures that will provide an operational baseline for all subcommittees and work groups, explained Mr. Lee. In developing the procedures, he added, the NEJAC, in consultation with the OEJ and relevant EPA program offices, was to develop a process for evaluating the effectiveness of the subcommittees of the NEJAC. Ms. Shepard would lead that initiative, said Mr. Lee.

Mr. Lee identified a series of tasks and provided assignments to members of the NEJAC to complete these tasks. The tasks are:

- Finalization of NEJAC Policy Advice Development Model

- Finalization of NEJAC Model for Incorporation Community Issues and Concerns into NEJAC Policy Dialogue
- Development of a definition of consensus and consensus-building
- Scoping report from Ad Hoc Scoping Work Group on Cumulative Risk Issue

Continuing, Mr. Lee stated that the NEJAC also would complete its work on the above tasks by June 30, 2002.

Mr. Lee explained that, as prescribed in the draft strategic plan of the NEJAC, the subcommittees of the NEJAC were to be asked to prepare annual strategic plans and progress reports to be submitted to the Executive Council of the NEJAC, OEJ, and the appropriate EPA program offices. He said that each subcommittee should submit a new or revised strategic plan to OEJ by September 30, 2002. Progress reports, he continued, would be due each year at least 30 days before each meeting of the NEJAC. The progress reports should describe in detail the subcommittee's progress in meeting the goals stated in its strategic plan, he noted.

Finally, Mr. Lee stated that the next meeting of the NEJAC was to be held in Baltimore, Maryland in December 2002. The issue that the NEJAC would be asked to consider and provide recommendations about during that meeting, he announced, was to be:

"How can EPA promote innovative pollution prevention approaches to ensure a clean and healthy environment and improve the quality of life for all people, including low-income communities, minority communities, and Tribes?"

Ms. Horne asked how the reports, procedures, and processes developed for implementation of the strategic plan were to be incorporated into the current document. She also noted some ambiguities in the language of the current version of the document, asking whether it would be possible to amend the current text. Mr. Lee responded that suggested revisions of the text and the products developed for implementation over the time period covered by the plan would be incorporated into a revised document after December 2002.

Returning his attention to the implementation of public participation at the regional level, Mr. Lee stated that OEJ is developing a process that EPA regional offices can implement in hosting listening

sessions. He stated that many questions must be considered during development of the process, including:

- Who should be invited to participate
- How the various regions can integrate the listening sessions into their regional plans
- Whether sub-regional meetings should be conducted, when appropriate

Mr. Lee then stated that, once a draft strategy for conducting the regional sessions has been formulated by OEJ, in conjunction with the EPA regional offices, OEJ was to provide a report to the NEJAC. He stated that the NEJAC then would advise EPA about the implementation of the strategy for the regional listening sessions and provide the agency recommendations about that effort.

Ms. Stahl suggested that members of the NEJAC should be able to work directly with the regional offices of EPA to engage in the regional listening sessions, noting that the Executive Council could glean many "lessons learned" from the public comment period process. She also commented that the members of the NEJAC perhaps could confer with EPA regional administrators during a meeting of the NEJAC.

Dr. Richard Gragg, III, Florida A&M University and member of the Health and Research Subcommittee, commented that the public also should have the opportunity to provide comments on the process for conducting regional listening sessions.

Ms. Eady expressed her belief that the listening sessions would be a useful addition to EPA's strategy for increasing public participation. However, she also expressed concern that the sessions would not lead to action by the EPA regional offices, pointing out that, in the past, citizens often had traveled to address the NEJAC only after regional authorities ignored them. She also expressed concern that the NEJAC would not be able to monitor the activities of 10 EPA regions. Ms. Shepard responded that communities still would have the opportunity to address the NEJAC during public comment periods. Ms. Shepard agreed, however, that reporting to the NEJAC about the progress of the listening sessions would be an important issue to be considered during the development of the process for those sessions.

5.0 PRESENTATIONS AND REPORTS

This section summarizes the presentations and reports made to the Executive Council of the NEJAC.

5.1 Update on the Interagency Environmental Justice Implementation Work Group

Ms. Guana provided an overview of the draft document, The National Environmental Justice Advisory Council's Report on Integration of Environmental Justice in Federal Agency Programs. That document was developed by the Interagency Environmental Justice Implementation Work Group to present information about the progress of the federal government in integrating environmental justice into the policies, programs, and activities of its agencies in a manner consistent with the provisions of existing laws and Executive Order 12898. The draft report, she explained, provides an analysis of information presented during the December 2000 meeting of the NEJAC, which had been held in Arlington, Virginia.

Ms. Guana reported further that the work group faced particular challenges in developing recommendations for EPA about interagency implementation on the basis of the panel discussions heard during the December 2000 meeting. She said that the policy issue related to interagency implementation is broad. Many of the presentations, she continued, did not provide complete descriptions of the pertinent activities of agencies because the presentations, of necessity, were limited in length. Some individuals, Ms. Guana explained further, made very general presentations that failed to provide specific information. Although other presenters provided a few, very specific examples of an agency's activities, time limitations prevented them from providing details about those activities, she added.

The work group faced another challenge in organizing the report, continued Ms. Guana. Different agencies have different missions and work under completely different legal authorities, she explained. She pointed out that it was problematic for the work group to present the report in a way that could capture that diversity without inviting comparisons that may be unfair, given the differing activities and legal authorities of the various agencies of the federal government.

Continuing, Ms. Guana stated that a third challenge that the work group faced in developing the report was that they could not verify independently that agencies were doing what they said they would be

doing or to evaluate the effectiveness of the efforts of the agencies.

To meet those challenges, said Ms. Guana, the members of the work group drew on various additional sources in an attempt to obtain more complete information about the actions of federal agencies. Such sources, she noted, included the web sites of the various agencies. She pointed out that the sources were not independently verified sources, a circumstance that introduced yet another limitation on the information included in the report.

Discussing the structure of the report, Ms. Guana stated that, to provide a legal context for the discussion of the activities of the agencies, the report began with a discussion of legal authorities. She noted that the discussion of legal authorities was limited principally to those authorities granted the various agencies under environmental statutes. However, she noted, many agencies have authorities under other statutes. To her knowledge, she said, the agencies have not performed a systematic study of all their legal authorities within the context of environmental justice. Therefore, she reported, in its report, the work group had recommended to the NEJAC that the NEJAC advise EPA to request each federal agency to undertake a review of all its legal authorities.

Ms. Guana then pointed out that the report also included information about legal developments that had taken place since the December 2000 meeting and the potential implications of such developments for the environmental justice movement. She cited the Supreme Court decision in the Sandoval case in which a divided court said the Civil Rights Act of 1964 does not authorize private lawsuits that contend state government policies have a discriminatory effect. Title VI of the act allows a suit only if litigants can prove discrimination was intentional, the court ruled.

Continuing, Ms. Guana noted that the work group had organized the report in a manner that would alert the reader to the differences among agencies in terms of their potential for exerting influence on environmental issues and their varying levels of legal authority. The report includes a table that categorizes the agencies by the nature of their activities, she added. Continuing, she explained that the work group also made an effort to convey an understanding of the types of activities in which the various agencies are engaged, including an analysis of activities the various agencies have in common.

Concluding her remarks, Ms. Guana stated that the intent of the report was to provide the reader with a complete and fair picture, or “baseline snapshot,” of the actions in which the various agencies currently are engaged. The report, she suggested, therefore can be used in the future to measure progress in integrating environmental justice into the policies, programs, and activities of the agencies. She added that the report could be helpful to the agencies themselves by providing information about the activities of sister agencies in areas of common interest that may assist them in determining how they can address environmental concerns related to their own missions. Ms. Guana then stated that the work group welcomes suggestions and comments from the members of the NEJAC about strengthening the report and making it more useful to EPA and other federal agencies.

Ms. Walker suggested that a representative of the Indigenous Peoples Subcommittee be invited to participate in preparing the final report. She stated that the Indigenous Peoples Subcommittee had made several recommendations to the work group as the report was being drafted; she noted that those recommendations had not been included in the report. Ms. Guana responded that the work group had focused first on the organization of the information in the report. She added that the work group would be interested in reviewing the recommendations of the Indigenous Peoples Subcommittee and incorporating those suggestions into the final report.

Ms. Stahl expressed her understanding that all the subcommittees had provided recommendations during the planning stages of the report. She suggested that the recommendations of all the subcommittees be reviewed as the final report is prepared.

Ms. Walker then asked when the final report was expected to be available. Mr. Lee responded that the final report was to be completed and distributed in March or April 2002.

5.2 Report on the Community-Based Health Research Model

Mr. Lee provided an update on the status of the report on the community-based health research model that the NEJAC had undertaken to develop. He reminded the participants in the meeting that, in response to issues discussed during the meeting of the NEJAC in Atlanta, Georgia, in May 2000, a 20-member work group, made up of members of the NEJAC and representatives of HHS and EPA, had

been formed to develop such a model. The final report of that work group had been distributed to the Executive Council in early 2001, he added.

Mr. Lee explained that a primary theme of community-based health research models was the need for interagency collaboration. To provide a meaningful response to the recommendations set forth in the health report, EPA’s Office of Research and Development (ORD), in collaboration with OEJ and EPA’s Office of Prevention, Pesticides, and Toxic Substances (OPPTS), had developed a strategy for interagency collaboration in the area of community-based health research. The strategy, continued Mr. Lee, had been forwarded to the office of the EPA Administrator for review. He stated that he expected a response from the Administrator in the near future. That expectation expressed, Mr. Lee then tabled discussion of the proposed strategy, pending receipt of that response.

5.3 Update on the Federal Facilities Work Group

Mr. Brandon Carter, EPA Federal Facilities Restoration and Reuse Office and DFO of the Federal Facilities Work Group of the NEJAC, provided an update on the activities of the work group.

Mr. Carter explained that the task of the work group is to identify and evaluate key issues related to the activities and operations of federal facilities that are of concern to environmental justice communities. The objectives of the work group, he stated, are to:

- Formulate national policy recommendations to address such concerns
- Provide a forum for the conduct of dialogue communities
- Compile a list of resources available to communities and stakeholders
- Produce a written report that summarizes the findings and recommendations of the work group

Mr. Carter stated that the work group had begun reviewing case studies in January 2001 to identify the key issues related to federal facilities that are of concern to environmental justice communities and to gather information that could serve as a basis for the development of the work group’s policy recommendations. He noted that work group also evaluated the effectiveness of previous policy recommendations made by various other federal advisory committees. He also noted that, during the

meeting of the NEJAC in December 2000, the U.S. Department of Energy (DOE), the U.S. Department of Defense (DoD), and the U.S. Department of the Interior (DOI) had signed a memorandum of understanding (MOU) that ensured their cooperation with the Federal Facilities Work Group and assigned staff members to collaborate with the work group.

Mr. Carter then announced that the work group expects to submit a final report to the NEJAC before the December 2002 meeting of the NEJAC to be held in Baltimore, Maryland. Mr. Lee reported that the NEJAC Federal Facilities Work Group will work in coordination with and report to the NEJAC Waste and Facility Siting Subcommittee. This will improve coordination between EPA and the NEJAC because the primary support being provided to this work group is being provided by the OSWER, which also supports the NEJAC Waste and Facility Siting Subcommittee. OSWER has committed to adding another member to the subcommittee to provide interface with the work group, he said.

Ms. Subra asked whether the working group was to evaluate the level of consistency between cleanup efforts at federal facilities and those at other cleanup sites, such as Superfund sites. Mr. Carter responded that the work group was reviewing case studies from a representative sample of various types of sites, including a formerly used defense site (FUDS), a base realignment and closure (BRAC) site, and a DOE site. The work group, he stated, would compare the principles and recommendations that are being implemented by the various authorities. Mr. Carter added, however, that such a comparison is difficult because the authorities that regulate how and by whom sites are cleaned up differ significantly.

Mr. Subra then asked whether the work group had considered the possibility that inactive federal facilities currently undergoing cleanup will be reactivated in response to the terrorist attacks of September 11, 2001. She asked whether it would be necessary to complete cleanup at a site before new activities could begin. Mr. Carter responded that sites that have been identified by Congress under the BRAC Program would not reopen because those properties are to be transferred out of the ownership of the DoD. Other sites that are put on standby by the federal government could be reactivated, he noted. Many sites on the National Priority List (NPL), a list of national priorities for sites with known or threatened releases of hazardous substances, are active facilities that continue to operate while undergoing cleanup, explained Mr. Carter.

Ms. Stahl reminded Mr. Carter and the members of the Executive Council that the Environmental Council of States (ECOS) also had provided recommendations to the EPA Administrator through resolution. Ms. Stahl suggested that, as it develops its report, the work group draw on staff of ECOS as a resource.

Ms. Eady asked whether the work group was to address the recurring issue of the determination of the lead agency when more than one federal agency has legal authority over cleanup of a federal facility. Mr. Carter responded that the work group planned to address the issue, commenting that issues related to the authority of the lead agency and that of EPA authority under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the National Contingency Plan (NCP) are "implicit in the issues related to federal facility sites."

Ms. Subra pointed out that one issue linked to federal facilities with increasing frequency over the past few years is contamination with perchlorate, a soluble oxidating agent used in the manufacture of explosives. Ms. Subra asked Mr. Carter whether, in its report, the work group would address specifically issues related to perchlorate. Mr. Carter responded that the report was not intended to address issues related to specific contaminants or implementation of measures to address such specific contaminants under cleanup programs. However, he continued, EPA currently is developing a new maximum concentration level (MCL) for perchlorate. He then agreed to provide the Executive Council of the NEJAC updates on the status of the development of the MCL.

Dr. Gragg asked whether the report would identify the number of communities that may be affected directly by environmental conditions at federal facilities and the status of cleanup efforts at the facilities identified. Mr. Carter responded that the work group had examined the possibility of cataloguing environmental justice communities that are located at or near federal facility sites but had discontinued the effort because of constraints imposed by limitations on resources. Instead, the work group decided to focus the report on the implementation of cleanup programs at federal facilities, he said. Mr. Carter added that the work group would be able to identify the total number of federal facility sites.

Ms. Mary Nelson, Bethel New Life and member of the Waste and Facility Siting Subcommittee, commented that, to ensure that contamination does

not reoccur at cleanup sites, standards for prevention should be included in the report.

Mr. Lee commented that lessons learned from several positive developments in the cleanup of federal facilities could be incorporated into the report. For example, he said, the cleanup and restoration of the Metlakatla Indian community of Metlakatla, Alaska, an environmental justice and national Brownfields showcase community, successfully involved DoD, the U.S. Coast Guard, and the U.S. Federal Aviation Administration (FAA). He also mentioned the success of Bridges to Friendship, an environmental justice demonstration project underway at the Washington Navy Yard in southeast Washington, D.C. Mr. Lee noted that the progress such efforts illustrate is significant.

5.4 Update on the Pollution Prevention Work Group

Ms. Subra, co-chair of the newly formed Pollution Prevention Work Group, provided a brief overview of the preliminary objectives of that work group.

Ms. Subra stated that the primary objective of the work group would be to evaluate how existing technologies, mechanisms, and programs for pollution prevention can be implemented in environmental justice communities to improve the quality of the environments of those communities. In light of information presented by the Fish Consumption Work Group, she said, her work group will consider how pollution prevention efforts can reduce contamination of aquatic environments. Continuing, Ms. Subra reported that the working group also would investigate mechanisms for measuring the effectiveness of pollution prevention measures.

Ms. Subra informed the members of the Executive Council that she and Mr. Warren, co-chairs of the working group, were to submit to EPA a list of potential members of the work group before the end of 2001. She requested that the members of the Executive Council submit names of suggested members of the work group to her and Mr. Warren. Mr. Barry E. Hill, Director, EPA OEJ, added that the members of the Executive Council also should recommend to EPA consultants that have experience in pollution prevention.

Ms. Walker requested that a representative of the Indigenous Peoples Subcommittee be appointed to serve on the work group. She also asked that the work group consider whether an evaluation of the issue of the "precautionary principle" would be

appropriate in light of the objectives of the work group.

Ms. Jaramillo suggested that the work group also evaluate the cost and benefits of environmental restoration, clean production, and low-impact development.

Mr. Suagee reported that his clinic currently is working with three tribes to develop tribal environmental policy and acts, specifically by creating an environmental review process for the tribes. The purpose of the effort, he explained, is to avoid pollution and other environmental degradation that might arise as a result of economic development. Mr. Suagee then volunteered to participate on the work group.

Ms. Eady noted that there are several valuable resources in the state of Massachusetts, including the Toxicities Reduction Institute and the Center for Sustainable Production. She volunteered to suggest some individuals representing those organizations as potential members of the Pollution Prevention Work Group.

Dr. Gragg suggested that the work group also consider pollution prevention at DOE and DoD facilities.

Mr. Larry Charles, ONE/CHANE and member of the International Subcommittee, specifically asked that Ms. Dianne Wilkins, Oklahoma Department of Environmental Quality be selected to represent the International Subcommittee on the Pollution Prevention Work Group.

5.5 Briefing on the Cumulative Risk Technical Panel of the EPA Risk Assessment Forum

Mr. Lee introduced Mr. Martin Halper, EPA OEJ, to provide an overview of the current draft Framework for Cumulative Risk Assessment prepared by the Cumulative Risk Technical Panel of the EPA Risk Assessment Forum, a standing committee of senior EPA scientists. The purpose of this briefing is to help NEJAC prepare to address the policy issue area for 2003, which is slated to be cumulative risk.

Mr. Halper explained that the framework document was developed to provide a basic structure and definition of key principles for EPA's cumulative risk assessments. In the future, he said, the framework document will be used as a foundation for comprehensive guidance for cumulative risk assessment. Mr. Halper noted that, in some cases, concepts introduced in the framework document

require the application and knowledge of methods that currently are not available. Therefore, he continued, the document also outlines research and development needs that must be met to support evaluation of cumulative risks.

Mr. Halper singled out two elements of the framework document that he considered particularly significant to the environmental justice movement. First, he said, the chapter on planning, scoping, and formulation of problems requires that public officials, experts on risk, community leaders, and interested and affected parties seek agreement on the purpose, scope, and approach for the risk assessment through extensive dialogue before the assessment begins. Second, he continued, the framework document addresses the concepts of the vulnerability, and specifically the susceptibility, of a population as important factors in the assessment of cumulative risk. Mr. Halper explained that a vulnerable population is a population at increased risk of adverse effect. The concept, he explained further, includes individuals or sensitive subgroups that may be highly susceptible to risk because of a number of possible factors, such as stage of life, prior exposure, or existing state of disease.

Mr. Halper then stated that the framework document, which includes traditional quantitative considerations, as well as qualitative considerations, has the potential to affect the ways in which EPA and other federal agencies operate.

Continuing, Mr. Halper stated that, in general, the framework document has been applauded universally. He then said that a full peer review of the document was to be conducted in the fall of 2002. After the framework document is final, he continued, the first steps in the development of a formal guidance document will include the development of new studies and the evaluation of existing studies that can be used as case studies and the testing of some of the concepts of cumulative risk assessment identified in the case studies. He added that the development of the guidance document would take approximately two years.

Ms. Guana asked whether the framework document addresses the concept of peak periods of exposure as a qualitative consideration in cumulative risk assessment. She also asked whether the framework document identifies an optimal geographic scale at which to assess cumulative risk, noting that an assessment of only large-scale exposures might mask the effects of a number of small sources of exposure.

Mr. Halper reminded the members of the NEJAC that the framework document is not a guidance document. Therefore, specific methods for evaluating peak-period exposures and determining the optimal geographic scale for a risk assessment are not included in the document, he said. However, he continued, the framework document does point out that the duration and geographic scale of exposure are important considerations that should be included in a cumulative risk assessment. He added that such considerations can be site-specific and should be discussed by all stakeholders during the planning and scoping phase of a cumulative risk assessment.

Calling attention to the preface of the framework document, Mr. Suagee pointed out that tribes had not been included in the extensive peer review of the document. He stressed that tribal peoples should be involved in the review process. Dr. Gragg noted that the list of reviewers in the preface did not appear to include representatives of environmental justice communities or other affected groups. Mr. Halper responded that those groups would be included in the formal peer review process. Mr. Lee also stressed to Mr. Halper that the experiences and expertise of the members of the NEJAC and their relationships with tribes, environmental justice communities, states, and other entities make the members important and valuable resources for the panel in developing the framework document and future guidance documents on cumulative risk assessment.

Mr. Lee noted that the NEJAC Ad Hoc Scoping Work Group is being asked to address two questions in preparation for addressing the cumulative risk issue. The questions will address:

- What are some focused approaches (specific definitions, conceptual frameworks, questions, methodologies, areas, etc.) to the issue of cumulative risks (and impacts) that will make a significant contribution at this time to addressing environmental justice concerns related to the issue?
- How can the NEJAC make best use of its own capacities (membership, constituencies, outreach and deliberative processes, knowledge base, etc.) to address the issue of cumulative risks (and impacts)?

Dr. Gragg asked whether the framework document addresses the issue of the “precautionary principle” as a strategy for risk management. Mr. Halper responded that the document does not discuss

principles of risk management, but rather addresses issues and considerations that are important in evaluating cumulative risk.

Ms. Shepard asked about the implications of the document for state permitting programs. She asked whether state environmental quality review acts or new legislation that specifically identifies cumulative risk as a required consideration would be necessary before the concepts presented in the framework document could influence state permitting processes. In response, Mr. Halper expressed his belief that the document will provide an impetus to the adoption of the concept of cumulative risk in the approach to assessment.

5.6 Update on the Implementation of Permitting Recommendations

Mr. Hill made a presentation on the status of EPA's implementation of recommendations made in the report of the Environmental Law Institute (ELI) "Opportunities for Advancing Environmental Justice: An Analysis of U.S. EPA Statutory Authorities." The ELI report reviews the principal environmental regulations of EPA that govern maintenance of air and water quality, management of waste, regulation of the use of pesticides and chemicals, and fulfillment of public right-to-know legislation, reported Mr. Hill. The report also identifies specific statutory authorities for promoting environmental justice in the full range of EPA program functions, including permitting and the setting of standards, he said.

Mr. Hill then described the context in which the ELI report was developed. He first shared an observation of one of the framers of the Constitution of the United States, "This is a government of laws and not of men". Therefore, observed Mr. Hill, if there is no law, there can be no regulations. Because there is no stand-alone federal environmental justice statute, he continued, supporters of the environmental justice movement must look at the existing laws and implementing regulations to determine whether and how environmental justice is in fact embedded in those laws.

Continuing, Mr. Hill noted that, to integrate the concept of environmental justice into the regulatory process, supporters of environmental justice must answer two questions:

- "What is the legal authority?"

- "Assuming the legal authority exists, how can environmental justice be incorporated administratively into permitting programs?"

Mr. Hill then presented the five steps necessary to incorporate environmental justice into EPA's regulatory process. The starting point, he said, is the advice and recommendations of the NEJAC. In response to discussions that took place at its 1999 meeting, he continued, the NEJAC had issued a report in July 2000 that focused on permitting authorities under the Resource Conservation and Recovery Act (RCRA), the Clean Air Act (CAA), and the Clean Water Act (CWA). In that report, he said, the NEJAC had recommended that EPA examine all the statutes under which it exercises regulatory authority to determine whether the legal authority to incorporate environmental justice into the agency's regulations is embedded in those statutes.

Continuing, Mr. Hill stated that the next step in incorporating environmental justice into EPA's regulatory process is legal analysis of existing statutes, as recommended by the NEJAC, and evaluation of how environmental justice can be incorporated in EPA's regulatory process from an administrative point of view. At the request of OEJ, ELI had performed a legal analysis, Mr. Hill explained, examining every statute under which EPA exercises authority, to identify opportunities to use **existing statutory authorities to advance environmental justice**. He also noted that, in December 2000, Mr. Gary Guzzi, EPA Office of General Counsel, had issued a memorandum that stated that environmental justice indeed is embedded in existing laws and implementing regulations. Therefore, there is no need for a stand-alone environmental justice statute, declared Mr. Hill.

With regard to the incorporation of environmental justice from an administrative point of view, Mr. Hill stated that OEJ had asked **the National Academy of Public Administrators (NAPA) to evaluate how environmental justice might be incorporated into the permitting process under RCRA, the CWA, and the CAA**. Mr. Hill then announced that, after his presentation, Ms. Ann Goode, senior consultant for NAPA, was to discuss the findings of that organization's evaluation.

The third step, Mr. Hill continued, is training. A training collaborative made up of representatives of EPA headquarters, EPA regional offices, industry, and community groups has been convened to develop a basic course on environmental justice that reflects recommendations made in the ELI and NAPA reports, he said. Further, EPA will develop

CAA and CWA training modules targeted to federal and state permit writers. The modules will train those individuals in integrating considerations of environmental justice into state and federal permits.

Mr. Hill then said that, after training has been provided, the next step is implementation. EPA OEJ would work with senior managers at EPA and EPA's Environmental Justice Steering Committee to implement environmental justice, as recommended in the ELI and NAPA reports, into their daily work under the authority provided by existing laws, he said.

Mr. Hill stated that the last step is evaluation. The EPA Inspector General will be asked to evaluate all programs for success in integrating environmental justice, as outlined in the NAPA and ELI reports, he said.

Ms. Ann Goode then gave a presentation on NAPA's research and evaluation of EPA's efforts to address the widely recognized fact that some communities of low-income people and people of color are exposed to significantly greater environmental and public health hazards than other communities. NAPA's research and associated recommendations are presented in the report "Environmental Justice in EPA Permitting: Reducing Pollution in High-Risk Communities is Integral to the Agency's Mission," she said.

Ms. Goode then explained that NAPA, an independent nonprofit organization that was chartered by Congress in 1967, is made up of some 500 fellows, including former members of Congress, leaders of nonprofit organizations and local government officials. Specifically, she said, NAPA was asked to prepare a report that would help the public better understand how considerations of environmental justice can be incorporated into the permitting process under RCRA, the CWA, and the CAA.

Ms. Goode stated that, in the report, NAPA recommended to EPA that changes be made in four distinct areas related to environmental justice: leadership, permitting procedures, setting of priorities, and public participation.

In the area of EPA's leadership in integrating environmental justice into permitting processes, Ms. Goode stated that President Clinton's Executive Order 12898 on environmental justice, as well as the policy statement Administrator Christine Todd Whitman issued to EPA assistant administrators on August 9, 2001 and statements made by former EPA

administrators, clearly articulated a commitment to environmental justice. However, despite the commitment of senior EPA leadership and, in many cases, allocation of substantial resources to the effort, Ms. Goode said, environmental justice has not yet been integrated fully into the agency's core mission or staff functions. There remains a "disconnect" between policy pronouncements and program realities, she added, although EPA has significant statutory and regulatory authority, as well as numerous opportunities to exercise discretion to incorporate considerations of environmental justice into its permitting processes, she added. Specific expectations for outcomes have not accompanied the commitments made, she continued, nor has EPA adopted methods of measuring progress in achieving outcomes or accountability to ensure that EPA managers and staff work to implement policies related to environmental justice.

Ms. Goode stated that NAPA's recommendations for EPA leadership in the area of integrating considerations of environmental justice into the agency's permitting processes are:

- Building on the EPA Administrator's recent environmental justice memorandum, EPA's assistant administrators for air, water, and waste and EPA's regional administrators should reinforce the importance of the policy on the incorporation of considerations of environmental justice, the role of that policy in the accomplishment of EPA's core mission, and the expectation that managers and staff will implement consideration of environmental justice in their projects and activities.
- EPA should complete its draft national guidance on environmental justice and develop practical tools that permit writers can use to identify and address issues of environmental justice related to air, water, and waste permits.
- EPA's offices of Air and Radiation, Water, and Solid Waste and Emergency Response should develop strategic plans that demonstrate how environmental justice is to be integrated into the substance and procedures of their permitting programs. Further, they should explore carefully ways in which they can use the authorities set forth in the General Counsel's legal opinion dated December 1, 2001 to incorporate considerations of environmental justice into permits for new and ongoing projects.
- Each strategic plan for incorporating environmental justice into a permitting program

should specify goals, measures of performance, expected outcomes, mechanisms for measuring accountability, and time frames for meeting the goals set forth in the plan.

- EPA should establish an accountability process that includes clear measures of performance for evaluating the success of EPA managers and staff in incorporating considerations of environmental justice into air, water, and waste permits.
- EPA should identify disproportionately affected and other adversely affected communities and establish explicit goals for reducing the risks posed to such communities. Further, EPA should set clear expectations for producing results that are linked directly to the agency's mission and give staff an important measure of performance that the staff can support wholeheartedly. Such tasks also could provide measures of EPA's progress in implementing environmental justice and could be reinforced by agency wide reporting that tracks such progress.
- EPA should develop a communication mechanism for agency wide sharing of information about tools that are effective in addressing environmental justice, including descriptions of best practices and lessons that all media programs, regional offices, and states can learn. The mechanism should coordinate EPA's activities in incorporating considerations of environmental justice into permitting processes, so that permit writers in all EPA's media programs and EPA regional offices can become more effective and efficient in responding to concerns related to environmental justice.
- EPA should evaluate the effectiveness of its national workshop on Fundamentals of Environmental Justice to determine how well the workshop meets its intended objectives, including the effective implementation of environmental justice in permitting.
- EPA should develop a program for rewarding the extra efforts of employees in addressing environmental justice in permitting through recognition under existing national awards programs and through the development of additional recognition programs.

Turning to a discussion of opportunities for integrating considerations of environmental justice

into individual permitting programs, Ms. Goode explained that a recent legal opinion issued by EPA's Office of General Counsel (OGC) made it clear that the CAA, the CWA, and RCRA provide permitting staff ample authority to address the concerns of high-risk communities when developing the terms and conditions of individual permits. The EPA Administrator reaffirmed that opinion in her August 9, 2001, memorandum to senior EPA officials, she said. However, EPA managers have not made it routine procedure to provide their permitting staff with straightforward, practical tools and procedures for incorporating community concerns into permits, nor have they directed that staff to ensure that concerns related to environmental justice are considered systematically in the conduct of EPA's permitting programs, continued Ms. Goode. Further, many EPA permit writers have not been provided the opportunity to learn how they can contribute to the resolution of issues related to environmental justice through an increased awareness of the community that may be affected by a proposed permit. Such awareness, said Ms. Goode, would include consideration of the nature of the risks the community faces; the concerns of the community about the activity related to the proposed permit, the capacity of the community to participate in the permitting process, and the best methods of communicating with the community.

Continuing, Ms. Goode pointed out that, because EPA's legal authority to issue permits is based on the provisions of RCRA, the CAA, and the CWA, EPA's ability to address other common concerns among high-risk communities, such as noise pollution, traffic concerns, and odor, is limited. She also explained that, in the area of permitting programs, EPA's credibility in high-risk communities depends upon its ability to visibly use opportunities for enforcing permit conditions, including more frequent inspections, local monitoring of environmental conditions, and reductions in backlogs of permit renewals for existing facilities.

Ms. Goode stated that NAPA's recommendations to EPA in the area of integrating considerations of environmental justice into individual permitting programs are:

- Senior program managers of EPA's air, water, and waste programs should take prompt steps to use their authorities, as outlined in the legal opinion issued by OGC, to prepare guidance documents for staff on how to fully incorporate considerations of environmental justice into their permitting programs. The managers should develop these documents after consulting with

representatives of affected communities and regulated entities. The programs also should use legal mandates and discretionary authorities to the fullest extent possible to expand opportunities for public participation in permitting programs; increase monitoring and public reporting; and impose in new, revised, and renewed permits conditions designed to reduce the burdens of pollution and public health hazards on disproportionately affected communities.

- In the short term, EPA should determine whether it can provide communities with earlier notice of permit applications so that the public will have a better opportunity to interact directly with EPA's permit writers and the community's concerns can be considered during the drafting and negotiating stages of the permitting process.
- Over the long term, EPA should revise its permitting regulations to ensure that nearby communities are notified of a permit application as early as possible.
- EPA should revise its public notification practices to ensure that public notices are provided in languages commonly spoken in the affected communities and placed in libraries, churches, community centers, and other locations accessible to members of those communities.
- EPA managers should provide permit writers with check lists or similar tools the permit writers can use in identifying and considering concerns related to environmental justice.
- EPA budget and administrative staff should recognize the additional time and effort that permit writers must devote to developing permit conditions that take into account issues of environmental justice and to working more closely with community groups. The agency's workload models should be adjusted as appropriate to indicate the average number of permits to be handled by a permit writer in light of such additional effort.

Continuing her overview of the NAPA evaluation, Ms. Goode discussed NAPA's findings related to EPA's use of permitting as a strategic element in pollution prevention and risk reduction. She stated that EPA had undertaken efforts to improve the science of cumulative risk assessment so that more tools are available to better assess disproportionate and

adverse effects on communities. However, while waiting for advances in the science of cumulative risk assessment, she explained, EPA and states currently have several tools available to support analysis of exposures of disproportionately affected communities to actual or potential multiple pollutants. She also said that EPA could perform more frequent and comprehensive environmental monitoring in communities to determine whether those communities should be given priority attention.

Ms. Goode stated that NAPA's recommendations to EPA in the area of the use of permitting as a strategic element in pollution prevention and risk reduction are:

- EPA should consult with state and local health and environmental officials to address concerns related to environmental justice and identify high-priority communities in which residents are exposed to disproportionately high levels of pollution.
- EPA should evaluate tools that have been developed by its regional and program offices, such as the Office of Policy, the Office of Civil Rights, and OEJ. EPA should identify among those tools potential best practices the Agency can recommend when it develops practical guidance documents to assist permitting staff in incorporating considerations of environmental justice into EPA permits nationwide.

Referring to improvement by EPA in increasing public participation in the permitting process, Ms. Goode stated that the Agency had experimented with various techniques for enhancing public participation. The techniques, however, she noted, have not yet been made standard operating procedure for EPA's permitting processes in the air, water, and waste programs. Ms. Goode then stated that NAPA's recommendations to EPA in the area of the use of permitting as a strategic element in pollution prevention are:

- EPA should expand its Technical Assistance Grant (TAG) and Technical Outreach Services for Communities (TOSC) programs to offer more timely and accessible technical assistance to communities that need such support.
- Using its discretionary authority, EPA should adopt procedures for providing early notice to communities once permit applications have been completed. Such notices should provide the name of an Agency community liaison and solicit comments from the community before the

Agency negotiates the terms and conditions of a permit.

Concluding her remarks, Ms. Goode stated that OEJ also had asked NAPA to next evaluate three state permitting programs. She commented that, while EPA itself performs relatively little permitting compared with the states, EPA could serve as a model for state permitting programs.

Mr. Hill added that the states selected for NAPA's evaluation would fall into the following categories: (1) a state that has passed or enacted environmental justice legislation; (2) a state that has issued an official statement that environmental justice is a policy issue; and (3) a state that has established an environmental justice commission or a body similar to the NEJAC. He explained that the purpose of evaluating states that fall into those categories is to demonstrate how such states can serve as models for their sister states.

Ms. Stahl expressed her belief that the next step should be development of the guidelines and standards to be applied through the appropriate authorities. She explained that, until standards have been developed, permitting and enforcement programs would not have the tools necessary to apply the principles.

Ms. Subra commented that, in the area of public participation, it is not sufficient to give communities

Exhibit 1-3

**RETIRING MEMBERS OF THE
NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL**

Ms. Rose Augustine
 Ms. Elaine Barron
 Ms. Daisy Carter
 Mr. Fernando Cuevas
 Ms. Denise Feiber
 Dr. Michel Gelobter
 Mr. Dan Greenbaum
 Ms. Rita Harris
 Ms. A. Caroline Hotaling
 Ms. Jennifer Hill-Kelley
 Ms. Savi Horne
 Ms. Annabelle Jaramillo
 Mr. Philip Lewis
 Mr. Neftali Garcia Martinez
 Ms. Zulene Mayfield
 Mr. David Moore
 Mr Carlos Porras
 Mr. Leonard Robinson
 Mr. Alberto Saldamando
 Mr. Mervyn Tano
 Mr. Michael Taylor
 Ms. Marianne Yamaguchi



Ms. Shephard presents Ms. Horne with a certificate of appreciation for her years of service on the NEJAC.

the opportunity to comment. She stressed that there is a real need, particularly in environmental justice communities, for capacity building and access to technical assistance. Ms. Subra said that the community must understand what the rules are, where the application violates the rule, and how a community can ensure that such information is entered into the record. Ms. Goode responded that the NAPA report includes explicit recommendations about increasing support for technical assistance for communities.

6.0 MISCELLANEOUS BUSINESS

6.1 Acknowledgments

Mr. Lee announced that OEJ would recognize and honor members of the NEJAC whose terms were to expire on December 31, 2001. Exhibit 1-3 presents the names of the retiring members of the NEJAC.

Mr. Lee also commended the efforts of the DFOs of the various subcommittees and work groups of the NEJAC: Ms. Wendy Graham, Ms. Shirley Pate, Mr. Will Wilson, Ms. Alice Walker, Mr. Rey Rivera, Mr. Brandon Carter, Ms. Brenda Washington, Ms. Aretha Brockett, Ms. Teresita Rodriguez, and Mr. Daniel Gogal. He also thanked the staff of EPA Region 10, including Ms. Joyce Kelly, Mr. Michael Letourneau,

Dr. Gragg suggested that the membership of the Puerto Rico Subcommittee of the NEJAC be expanded to include representatives from the Virgin Islands. Dr. Gragg pointed out that other dependencies of the United States, particularly those that are islands, are faced with issues of environmental justice. Ms. Horne commented that she strongly agreed with Dr. Gragg's suggestion. Dr. Ramirez-Toro suggested that the recommendation be communicated to EPA Region 2 office and the Caribbean Field Office, noting that those offices provide financial support for the Puerto Rico Subcommittee.

Ms. Shepard stated that she would like to compile a year-end report on the accomplishments of the NEJAC during 2001. She asked that the chair of each subcommittees e-mail a list of that subcommittee's accomplishments to herself and Ms. Marva King, NEJAC Program Manager, EPA OEJ, by January 15, 2002.

Ms. Victoria Plata, and Ms. Ony Okorna, for their support in coordination of the planning of the meeting of the NEJAC with community groups in the region.

Continuing, Mr. Lee recognized the efforts of the staff of OEJ, especially Mr. Hill, Director of OEJ; Ms. Linda K. Smith, Associate Director for Resources Management, EPA OEJ; Marva E. King, NEJAC Program Manager; and Ms. Jaime Song, OEJ Intern, and thanked them for their hard work.

Ms. Jaramillo personally thanked Mr. Lee for his efforts, stating that the meetings of the NEJAC "could not happen" without his guidance. She then thanked Ms. Shepard for her hard work and for her leadership during the meeting of the NEJAC.

6.2 New Business

This section summarizes items of new business discussed during the closing remarks of the members of the Executive Council of the NEJAC. Ms. Shepard stated that the items should be noted in the record and would be discussed by the members of the Executive Council in the future.