

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

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In the matter of the:
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SIXTEENTH MEETING OF THE :
NATIONAL ENVIRONMENTAL JUSTICE :
ADVISORY COUNCIL :
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VOLUME III

Thursday, December 14, 2000

Hyatt Regency Crystal City Hotel
2700 Jefferson Davis Highway
Arlington, Virginia 22202

The Sixteenth Meeting of the NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL convened, pursuant to notice, at 9:00 a.m. on Thursday, December 14, 2000.

APPEARANCES: NEJAC Advisory Council Members:

- MR. HAYWOOD TURRENTINE, Chairperson
MR. CHARLES LEE, DFO
MR. DON J. ARAGON
MS. ROSE MARIE AUGUSTINE
MR. LUKE W. COLE
MR. MICHEL GELOBTER
MR. TOM GOLDTOOTH
MS. JENNIFER HILL-KELLY
MS. ANNABELLE JARAMILLO
MS. VERNICE MILLER-TRAVIS
MR. HAROLD MITCHELL
MS. MARINELLE PAYTON
MS. ROSA HILDA RAMOS
MS. PEGGY SHEPARD
MR. ALBERTO SALDAMANDO
MS. JANE STAHL
MR. GERALD TORRES
MS. JANA L. WALKER
MR. TSEMING YANG
MS. PAT HILL WOOD

Also Present:

- MR. STEVE HERMAN
MS. SAVI HORNE
MR. DELBERT DUBOIS

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NEJAC GENERAL SESSION
BUSINESS REQUIRING EXECUTIVE COUNCIL ACTION
MR. TURRENTINE: Seeing as how we have a quorum, I now declare this session to be in order.
MS. JARAMILLO: Mr. Chairman.
MR. TURRENTINE: Yes.
MS. JARAMILLO: If we're in order, I'd like to have the floor for a minute.
MR. TURRENTINE: You may.
MS. JARAMILLO: The reason I'm asking for the floor is I'm going to be shortly making a motion. I know that sometimes we try to deliberate without some of the formality of Robert's Rules, but I think it's important to do so at this point in time.
The reason I want to do it is there's some undercurrents and there's some confusion and concerns relayed by a lot of people in terms of the direction and some of the things that maybe happening over the next few months.
The motion I will be making formally is not debatable. It requires an up or down vote of two-thirds of the --
MR. TURRENTINE: Can you hold for one moment?
Can we have order in the back?
(Pause.)
MS. JARAMILLO: The reason I'm giving you the information ahead of time is so that there will be no confusion about the motion I will be making. It is not debatable and it will require a two-thirds vote of the

1 Council to pass.

2 The motion I want to make at this time is to suspend the agenda
3 and get into a discussion of many of the undercurrents and issues that
4 have been kind of fomenting throughout this NEJAC Council meeting.
5 And I think before we can deliberate further on our business we really
6 need to address those in an open manner and resolve some of those
7 issues.

8 So, my motion is to suspend the agenda.

9 MR. TURRENTINE: Motion made. Is there a second?

10 PARTICIPANT: Second.

11 MR. TURRENTINE: It has been duly seconded. Noted.

12 There is a motion on the floor to suspend the order of the agenda
13 to get into some substantive discussion. Any questions on the motion?

14 (No audible response.)

15 MR. TURRENTINE: Any unreadiness?

16 (No audible response.)

17 MR. TURRENTINE: Call for the question.

18 MR. COLE: I call for the question.

19 MR. TURRENTINE: All in favor of the motion to suspend the
20 agenda and the order of business, let it be known by the usual show of
21 hands.

22 (Show of hands.)

23 MR. TURRENTINE: Seeing a unanimous vote, the ayes have it and
24 so ordered.

25 The floor is now open for discussion of items that have germinated
26 or emanated some undercurrents within the meeting this week, and the

1 Chair would recognize Vernice Miller.

2 MS. TRAVIS-MILLER: Mr. Chair and Charles, we address this both
3 to you. In the discussion that we had on Tuesday morning there were a
4 number of issues that were discussed that left us, quite frankly, mystified.

5 Chief among them was the question around the NEJAC's role as a
6 policy advisory body. We believe that we need to start at that point
7 because we are talking about the essence and the mission of the
8 National Environmental Justice Advisory Council.

9 To that end, I want to revisit the question that I asked Barry Hill, the
10 Director of the Office of Environmental Justice, and revisit what his
11 response to me was, and then read from our Bylaws and what our
12 Bylaws say about the subject.

13 I asked Barry on Tuesday morning if in fact the NEJAC is an
14 advisory body that provides advice and counsel on policy-making issues
15 pertaining to environmental justice questions, issues, et cetera, within
16 and to the Environmental Protection Agency and other agencies as EPA
17 deems fit.

18 Barry said that was not our role and I was incorrect.

19 The Bylaws of the U.S. Environmental Protection Agency National
20 Environmental Justice Advisory Council read as follows under Section 3,
21 Mission and Scope:

22 "The NEJAC, EPA's national advisory committee, formulates
23 recommendations and advice on environmental justice policy and
24 direction." End of sentence.

25 So, I would like clarity on whether or not we are an advisory council
26 that gives advice to the agency around policy issues pertaining to

1 environmental justice or not. And I would like a definitive answer to that
2 question. We would like-- this is not just my inquiry; this is an inquiry for
3 the NEJAC.

4 MR. TURRENTINE: Vernice, in addition to that, I've gone back and
5 I've looked at the Charter that's in our booklet, and if memory serves me
6 correctly -- and we can certainly check the record -- that statement
7 regarding policy used to be in the Charter also and for some reason it is
8 now redacted from the Charter.

9 I guess I would like to have some discussion regarding how that
10 happened, whether or not we did it and didn't realize we were doing it, or
11 whether it was done onto us.

12 So, there are just a number of issues around this issue of whether
13 or not we are providing advice and counsel to the Administrator on issues
14 of environmental justice regarding policy in the agency.

15 MS. TRAVIS-MILLER: Charles, unfortunately, as you are sort of the
16 only person at the table who's not a member of the Council, this
17 unfortunately befalls to you to answer the question.

18 Just so you know, we were hoping to have this discussion with
19 Steve Herman and with Barry Hill.

20 MR. LEE: Yes, it is very unfortunate.

21 (Pause due to AV system problem.)

22 MR. LEE: Can you hear me?

23 PARTICIPANTS: Yes.

24 MR. LEE: I said, yes, it is unfortunate. I think it speaks for itself,
25 the NEJAC is the advisory body set up to provide advice on policy and a
26 host of other issues to EPA related to environmental justice. I mean, I

1 think that that speaks for itself.

2 I think that the issues around which the national environmental
3 policy guidance -- environmental justice policy guidance -- the way they
4 surface, brings to light perhaps different interpretations of what that
5 means. I think that -- and the issue that you're raising, that's very
6 serious.

7 I don't know if -- you know, the reason why this is unfortunate is
8 because the question -- this does have to be a conversation that the
9 Council and Barry have to have, as well as perhaps with Steve Herman,
10 you know.

11 But I will say that, you know, issues of importance to environmental
12 justice is something that the Council needs to be involved with and be
13 part of a process in terms of providing advice and recommendations
14 around. It speaks real clearly for itself and obviously there are a lot of
15 concerns that are being raised as to whether or not that's being achieved
16 adequately.

17 So, I mean, I will go that far at this point, but I'll be glad to talk about
18 it with you in any way that you want to.

19 MS. TRAVIS-MILLER: Charles, if I might respond. Thank you for
20 your clear answer to the first question. But it seems that there does need
21 to be some substantive discussion within the leadership of the Office of
22 Environmental Justice and the NEJAC because there is not unanimity of
23 opinion, thinking, and understanding on the role of the NEJAC. We
24 cannot continue to go forward if we are not all of one mind about what the
25 role and mission of the NEJAC is. So, we need some real clarification.

26 We've heard from you, Charles, and we thank you for going on the

1 record and stating what you understand and believe the role to be. But
2 as it was Barry who gave the response that that is not our role, then we
3 really need to have a discussion with Barry and we believe also with
4 Steve Herman, and others, as you see fit, in the Office of Environmental
5 Justice.

6 So, that's point number one. But, first, thank you for your clear --
7 MR. LEE: Could I respond to that?

8 MS. TRAVIS-MILLER: -- and direct answer. Yes.

9 MR. LEE: Let me just respond to that.

10 I said at the end of that session in which Barry presented about the
11 environmental justice policy guidance, that it is very clear that there are
12 issues of particular policy significance -- of particular significance to the
13 issue at hand, which is the environmental justice policy. But there were
14 larger issues that are being raised.

15 I don't think that there is, you know, any -- I mean, I don't think that
16 we need to beat around the bush as to the fact that there are concerns
17 that have been expressed either individually or among the group in
18 session as far as the way that business is being done with respect to the
19 NEJAC in terms of the different interpretations of the role of the NEJAC
20 and how you carry that out, in terms of the style in which our work is
21 being done and advice, recommendation, collaboration, consultation, and
22 so on and so forth.

23 These are large issues and these need to be addressed. And these
24 need to be addressed if the viability and the integrity of the National
25 Environmental Justice Advisory Council is going to continue.

26 So I think that it is important that you are raising these. It is

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1 important that you are raising these for the record. And I think that, you
2 know, many of those issues that I know that many of you have really
3 need to be stated and it is good that this is an opportunity to do that.

4 MR. TURRENTINE: There is another basically -- number one,
5 would the contractors do what they can to get us some cord so that we
6 can use these mikes? We can't even pull the mikes close to us to use
7 them because there's not enough cord.

8 PARTICIPANT: They're going to fix it on the break.

9 MR. TURRENTINE: They're going to fix it on the break and we can't
10 use the mikes now on the most important discussion we're going to have.

11 Anyway, in addition to the issue that we're talking about -- in addition
12 to what we're talking about here, the broader issues, other than just
13 interpretation because that becomes very serious for everything that we
14 do -- if we are operating under one set of assumptions and the Office of
15 Environmental Justice is operating under another set of assumptions or
16 interpretations, then we're going at loggerheads.

17 Now, I want to just provide a framework for a broader discussion
18 because we're not going to get any two answers to this question. Let's
19 talk about the broader issues of how things are happening or aren't
20 happening.

21 For example, NEJAC was not involved in this document. That's one
22 issue.

23 MS. RAMOS: Mr. Chair.

24 MR. TURRENTINE: Let me just finish.

25 NEJAC was not involved in this particular issue, this document.
26 NEJAC has had its role, as we perceive it, rolled back in a number of

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1 other issues. For example, selection of sites for the meetings, the
2 development of the agenda for the meetings, the composition and the
3 makeup of the Council and the subcommittees.

4 So there are a whole host of issues that need to be discussed, and
5 though we're not going to get answers, the Office of Environmental
6 Justice and EPA need to know how we feel about it and what our
7 thoughts are.

8 So to that end, I would ask that we just kind of weigh in and do
9 whatever we can do best.

10 I think Marinelle was first, Rosa, and then Tom and then Rose.

11 MS. RAMOS: I just think that we need an explanation of why Mr.
12 Barry Hill is not here. And I think we should send a petition for him to
13 present here right away and also to invite Mr. Steve Herman or Sylvia
14 Lowrance -- otherwise we're talking to ourselves.

15 MR. TURRENTINE: On the issue of Barry, I know Barry is
16 experiencing some tremendous pain with a back injury that's going to
17 require surgery I think the first of the year. Barry, if you've noticed him --
18 and I'm not defending him not being here, but I did get word from him that
19 he would not be here, that he is simply flat on his back and under
20 medication to try to reduce some of the pain.

21 So I don't think sending a notice out to Barry to have him come here
22 is going to meet with any positive response.

23 I don't know why Steve is not here.

24 MS. RAMOS: But then, again, I think we should send them a
25 petition to present here, to be here. Steve Herman or Ms. Sylvia
26 Lowrance.

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1 MR. LEE: I understand that Steve was going to be here but there
2 was a schedule conflict. This was something, I guess, of great
3 importance. And that's all I know.

4 MR. TURRENTINE: Tom.

5 MR. GOLDTOOTH: Can you hear me? Something is wrong with
6 the mikes this morning.

7 I'm also very concerned about this. It's been on my mind since the
8 presentation that Barry made on the environmental justice policy. When
9 Luke questioned the process that excluded us to review that draft, that's
10 something I was very concerned about.

11 Subsequently I was talking to one of the individuals from inside EPA
12 and I was alarmed to hear that that document was shared by industry and
13 by states for review. Whether or not that was officially or unofficially, I
14 think that violated many -- that violated the principles of environmental
15 justice that many of us at this table adhere to.

16 It's something that I think needs to be addressed. It's serious. And
17 we need to have someone here, at least before we leave today, that's in
18 a position within the agency to correct this issue, to give clarification to
19 it.

20 I remember last year when we were going through this change
21 within the Office of Environmental Justice as far as leadership, one of the
22 concerns that came up last year was a new vision that Barry had that we
23 need to steer away from issue-specific discussions and go more into
24 being more -- I forgot his words, but they were in the area of being more
25 strategic in addressing the issues that we deal with that can affect policy,
26 affect policy.

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1 That's something that many of us also agreed to, that our work here
2 is on two levels, providing an opportunity for the public to come to talk
3 about their issues, but also to feel that we can also make change, affect
4 policy, concerning these issues.

5 And so I remember that was his vision. Now, what I'm hearing now
6 is contrary to that, especially the statement he made the other day when
7 Vernice had fielded some questions. So I think we need to have that
8 clarification promptly.

9 MR. LEE: Do you want an answer? Do you want some kind of
10 response?

11 As far as the issue of shared documents with industry or states,
12 don't know anything about that. That's the only thing I can say.

13 As far as getting Barry or someone here, we should try to do that.

14 And then, as far as many of the other things that you're raising, they
15 are very important issues to be fully and thoroughly discussed.

16 MS. RAMOS: Mr. Chair. Once more I'm asking you --

17 MR. TURRENTINE: Hold it. Rosa, hold it just one minute. Let me
18 get a couple of people and then I'll come back to you, if that's okay.

19 If your response is directly on this discussion, then why don't you go
20 ahead.

21 MS. RAMOS: It's just that I want to know if we are going to request
22 the presence of Steve Herman and Sylvia Lowrance formally? Are we
23 going to send them a message now? I'm asking.

24 MR. LEE: Has that been done already? The answer is yes.

25 MR. TURRENTINE: The answer is yes, they're going to use a cell
26 phone and they're going to call now.

1 We would also respectfully ask that once you make that call that you
2 let me know what the response is.

3 Rose and then Luke.

4 MS. AUGUSTINE: Hope this works. Okay.

5 My concern is on what you said, Haywood. Also, I have noticed
6 what is happening to the NEJAC. We don't have -- when the NEJAC was
7 first formed, we used to have lines of people that came from all over the
8 country to testify, and now it's just a handful of people. What is
9 happening?

10 You know, the people are expected to turn in a written document on
11 what they're going to talk to. This is putting a lot of burden on the
12 community. Who came up with this idea? This is what we wanted to get
13 away from in the communities, where people can come and testify and
14 not have to go through these formalities. That is placing a heavy burden
15 on communities.

16 Also, what happened to the tours of the communities? We didn't
17 have one in May and we didn't have one for this meeting.

18 So what are we doing here? If Steve Herman -- that's his name?
19 Sylvia Lowrance or Barry Hill can't be here, then we're just talking to
20 ourselves? I'm walking out of here if someone doesn't come within the
21 next half hour.

22 And if they're hiding their heads in shame, they should. I don't
23 expect any excuse. They need to be here. Barry Hill was here yesterday
24 and he was very adamant about what he was doing. And all of the
25 sudden he's sick. He didn't look sick to me yesterday. He looked like he
26 was ready to jump up and down when he threw his temper fit. Maybe

1 that's how he threw his back out.

2 (Laughter.)

3 MS. RAMOS: Mr. Chair.

4 MR. COLE: Thank you, Mr. Chair.

5 While we're on the issue of the Environmental Justice Policy
6 Guidance, it's come to my attention that this document apparently has a
7 long history, and I wanted to edify the members of the NEJAC about that
8 because when I heard this I became even more troubled than I was on --
9 I guess it was Tuesday when I heard about it, when I was described as
10 "agitated."

11 (Laughter.)

12 MR. COLE: Apparently the Environmental Justice Policy Guidance
13 began as an idea in August of 1999, some 16 or 17 months ago, when
14 the environmental justice coordinators in the regions and the Office of
15 Environmental Justice staff began preparing this document.

16 Sometime between August and December that task was taken away
17 from them by the Director of the Office of Environmental Justice who then
18 hired a contractor to work with him to produce the document.

19 In December of 1999, a year ago, a draft of that document was
20 circulated back to the regions.

21 So, a year the Office of Environmental Justice had a draft of the
22 policy document, while we were meeting at the last NEJAC last
23 December, there was a copy of this document that went out to the
24 regions.

25 The regions had a number of different comments, some positive, but
26 many critical of that document which was drafted by the contractor and

1 by Barry Hill. The regions submitted significant comments, even though
2 it was on a very shortened timeframe, in December and January. And
3 then the document disappeared.

4 It has now reappeared in December of the year 2000, and this is
5 first that we're hearing about it as the National Environmental Justice
6 Advisory Council.

7 I said this on Tuesday, but I'll say it again. If the Office of
8 Environmental Justice is drafting and Environmental Justice Policy
9 Guidance and is not involving the National Environmental Justice
10 Advisory Council, I'm not quite sure what our function is.

11 I've also heard from four separate sources that both the state
12 governments and industry representatives, specifically the Chamber of
13 Commerce, were sent drafts of this policy.

14 Now, Charles may not have been in the loop on this because this
15 was clearly happening higher up the food chain. So I don't want to put
16 this on Charles.

17 But this is a very disturbing -- a very disturbing series of events that
18 I just wanted to set out for the record to show that while it appeared we
19 were being kept in the dark when we heard about this on Tuesday, the
20 actual circumstances are much worse than what we were led to believe
21 on Tuesday. Not only was this document around for a year and a half,
22 but it's also been shared with other stakeholders outside of this process.

23 MR. TURRENTINE: Charles is not leaving.

24 (Laughter.)

25 MR. TURRENTINE: Charles is going to talk to Steve, and he will be
26 back momentarily. But we shall proceed.

Rosa.

MS. RAMOS: Rose, I heard you say that you're going to leave in half an hour if they don't come. I want to ask you to stay because we are here to represent the people and we have to stay here denouncing what's wrong. We cannot allow the community seat to be empty. I invite you to stay.

MS. AUGUSTINE: I'd like to respond to that.

I said I would leave if someone doesn't come because if they don't have the respect that we deserve on this committee, and we don't have any authority on this committee to say anything, they don't think that we are worth coming down and answer our questions, then there's no reason why I have to sit here and lose the respect and the integrity of my community.

I represent my community and I will not allow my community to be disrespected and lose the integrity that we now have. That man that came -- that gentleman that came and testified the other night, he hit the nail right on the head. He was right on target with what he said. What he said there was very disrespectful for this whole board here.

I refuse to have anyone disrespect my community and myself. I'm here to represent my community and we don't deserve that because we don't have the power and we're -- we're just a rubberstamp on this committee and we are allowing this to happen to us.

Let me tell you, this is not a very prestigious committee in my eyes. (Applause.)

MR. TURRENTINE: Vernice and then Annabelle.

MS. TRAVIS-MILLER: Haywood, I think I'll do something historic,

and I'll pass.

MS. JARAMILLO: One of the concerns that I have, and it's --

MR. TURRENTINE: Hold on one minute, Annabelle. This side of the room wanted to know what Vernice said. She said she's going to do something historic and pass.

(Laughter.)

MS. JARAMILLO: Everything Vernice does is historic.

(Laughter.)

MS. JARAMILLO: I think for me the issue is if we have no direction or no support or no clarification of what our role is here, I think it adds discomfort, it adds frustration. The other overarching issue is that we have no idea what direction will be coming in the next few months in light of a new administration who in my opinion has not demonstrated that it cares about people.

And so for us to be working with an agency which is not communicating with us at this point in time and expecting that we're going to be able to advise on issues to keep hope alive in communities, it's very frustrating for me. And I guess I would rather spend my time working at the local level to ensure that something good does happen for communities.

This takes a great deal out of our time and it takes a great deal of energy. And it impacts us in many other ways, emotionally, our health, our commitment.

For me it just doesn't make sense to continue to give time if that time isn't going to be appreciated, if that contribution isn't going to be listened to, and if we don't get clear understanding of what it is we're

expected -- or what is expected of us.

MR. TURRENTINE: Rosa Hilda.

MS. RAMOS: You know, this morning I was thinking that this was going to be one of the happiest days in my life because of the accomplishments we have obtained related to Puerto Rico. But since anything can happen in this meeting today, I would request respectfully the Council to allow Ms. Jaramillo to present for the record the recommendation and what happened with Puerto Rico because I really believe anything can happen in this Council today and I don't want this to be left -- this left out of the record while we wait for an answer.

MR. TURRENTINE: Without objection, you shall proceed.

MS. JARAMILLO: Actually, this doesn't fit into this discussion but I think in order to get this on the record it's probably appropriate to submit it at this time. It was going to be part of the report of the Air and Water Subcommittee. We did reach agreement yesterday with the agency on issues regarding the power plants in Puerto Rico.

Let me, for the record, read it into the record so that it will be part of the proceedings of this meeting.

The Air and Water Subcommittee met in New York City October 17th and 18th to focus on public utility issues. The subcommittee also focused on the issues raised by its resolution to the NEJAC regarding power plants in Puerto Rico. The discussions focused primarily on reducing sulfur emissions, mass emission limits, and other air quality issues.

After considerable discussion, the Air and Water Subcommittee recommended and the agency agreed to pursue actions identified by the

subcommittee with the primary goal -- and this is emphasized -- to achieve through every practical method a reduction in fuel sulfur on PREPA power plants to .5 percent sulfur.

The methods to accomplish this will include both legal and regulatory action by EPA and action to encourage strong government and community pressure for improvement.

Under legal and regulatory actions, strict enforcement of the 1999 Consent Decree, including defense of the opacity tests and efforts to find justification for modifying the SIP to support a tightening of the mass emission limit to .1 pounds -- and I have a typo here, so mmbtu -- somebody give me what that is -- it's a parts per btu -- and/or fuel and sulfur levels, which in turn will enable tightening of Title V permits. So the reduction is going to help maybe then revisit the issue through Title V.

Under the efforts to strengthen government and community pressure, EPA will meet with the newly-elected Governor, EPA will offer training for communities to identify opacity violations and raise community awareness of violations. They will assemble a technical team to evaluate the pros and cons of using low sulfur fuel and other operational improvements at PREPA's power plants. And EPA will determine the health benefits of using low sulfur fuels in PREPA and publicizing those benefits, and they will bring NIH into the discussions.

If we resolve the other issues that we're discussing here this morning, the Air and Water Subcommittee will continue to monitor this progress.

(Applause.)

MS. JARAMILLO: Now, I know that it is not really a part of the

1 discussion we were having overall in terms of the direction of the NEJAC,
2 but it is important that we not leave here without this particular piece
3 being in the record in that the agency has committed to follow-up on that.

4 Thank you.

5 MR. TURRENTINE: Charles. Charles, do you have anything for us
6 at this point?

7 MR. LEE: You asked me?

8 MR. TURRENTINE: Yes. Do you have any update for us?

9 MR. LEE: Well, you all waited on baited breath, right? Well, first,
10 I talked to Steve Herman. He wanted you to know that the meeting that
11 he was called away to this morning was with the Assistant Administrator
12 for the Office of Air. It was around a diesel issue, a diesel -- I think it's a
13 diesel rule, which is something that is of really very grave significance.
14 I don't need to explain that.

15 Steve does want to meet with you, and he'll be here around 11:30,
16 at which point he just wanted to chat with me for a little while. And I think
17 by around noon time we could have a meeting. Okay?

18 MR. TURRENTINE: In light of the time of arrival for Steve Herman,
19 if it pleases the Council, it might be futile to continue this discussion and
20 we may want to go back to the regular agenda and then resume this
21 portion once he arrives. Is that --

22 MR. COLE: So moved.

23 MR. TURRENTINE: Okay. It's been moved that we go back to the
24 original agenda. And is there a second?

25 MS. TRAVIS-MILLER: Second.

26 MR. TURRENTINE: It's been properly moved and second that we

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1 go back to the original agenda, to resume this conversation after Steve
2 Herman comes to meet with us.

3 Is there any unreadiness on the motion?

4 (No audible response.)

5 MR. TURRENTINE: Ready for the question?

6 All in favor of the motion, let it be known by a show of hands.

7 (Show of hands.)

8 MR. TURRENTINE: Seeing none opposed, the ayes have it, and
9 so ordered.

10 What we can do at this point, Charles, if you would like --

11 MR. LEE: Let me just, if I could, Haywood, just explain to you what
12 -- as the agenda stands, there was going to be the subcommittee reports
13 and -- well, let me do it in order.

14 We were going to have a discussion around the policy issue. I was
15 going to give a short summary. Then we were going to have a report on
16 the -- the May meeting report on community-based health research
17 models. And then, lastly, we were going to have subcommittee reports
18 and recommendations.

19 Within all that we had wanted to do a recognition and
20 acknowledgement of the NEJAC members who are rotating off of the
21 NEJAC. It's probably wise, because there are a number of you who are
22 rotating off of the NEJAC, that that be done as early as possible.

23 (Pause.)

24 MR. LEE: You'd better say something.

25 MR. TURRENTINE: Charles said I'd better say something. Do it.

26 MR. LEE: Listen, I'm going to need somebody to help me do this.

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PRESENTATION OF AWARDS

1 MR. LEE: Well, like I said, I guess what we want to do is, you know,
2 have all of you come up. We have plaques for all of you. All line up
3 here, at which point I think it would be really nice to have a picture taken
4 of all the members rotating off.

5 I'm going to start with -- let me just say, I guess what we should --
6 we should start lining up from there. Yes.

7 I'm going to start with the subcommittees. The first plaque we want
8 to present is for Professor Bunyan Bryant from the University of Michigan
9 who has been a member of the Air and Water Subcommittee. Bunyan.

10 (Applause.)

11 MR. LEE: We want you to come up here. If those of you would pay
12 attention, you would know what's going on. And if OEJ staff would stop
13 talking to people who are going to be acknowledged, we can carry on.

14 Bunyan.

15 PROFESSOR BRYANT: Oh, my God.

16 MR. LEE: Thank you for your service on the NEJAC.

17 (Presentation of award.) (Applause.)

18 MR. LEE: The second plaque is for Clydia Cuykendall who has
19 been a member of the Air and Water Subcommittee, a real hard worker
20 and I think has been a real asset to that subcommittee. Is Clydia here?

21 (Applause.)

22 MR. LEE: The third plaque goes to Delbert DuBois from South
23 Carolina. He's been a member of the Enforcement Subcommittee.
24 Delbert.

25 (Presentation of award.) (Applause.)

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1 MR. LEE: Thank you. You got your picture? You want another
2 one?

3 PARTICIPANT: We got it.

4 MR. LEE: Okay, let's go. Delbert, stay up here.

5 The next plaque goes to Beth Hailstock who has been a member of
6 the International Subcommittee. Beth is with the Cincinnati Department
7 of Health. Is Beth here? Okay. I guess not.

8 Next we have Brad Hamilton. Brad's been a member of the
9 Indigenous Peoples Subcommittee from the State of Kansas.

10 (Presentation of award.) (Applause.)

11 MR. LEE: Brad has also been the vice-chair of the IPS.

12 Next we have Michael Holmes.

13 (Applause.)

14 MR. LEE: Is Michael here? Okay. His only one chance at this, you
15 know.

16 Charles Miller from the Indigenous Peoples Subcommittee. I don't
17 think Charles is here, is he?

18 Let me ask, because of the last discussion is there no one that
19 wants these plaques anymore?

20 (Laughter.)

21 MR. LEE: Okay. Next from the South Carolina Department Health
22 -- okay, Lillian Mood.

23 (Applause.)

24 MR. LEE: And from the Waste and Facilities Siting Subcommittee
25 Brenda Lee Richardson. I don't think Brenda is here, is she?

26 (Applause.)

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1 MR. LEE: Now we have the Executive Council members. We begin
 2 with Luke Cole, the Chair of the Enforcement Subcommittee. Luke.
 3 (Presentation of award.) (Applause.)
 4 MR. LEE: Next we have Tom Goldtooth who is the Chair of the
 5 Indigenous Peoples Subcommittee. Tom.
 6 (Presentation of award.) (Applause.)
 7 MR. LEE: Next we have Dr. Marinelle Payton, the Chair of the
 8 Health and Research Subcommittee.
 9 (Presentation of award.) (Applause.)
 10 MR. LEE: Rosa Hilda Ramos, our beloved Rosa Hilda Ramos.
 11 (Applause.)
 12 MR. LEE: From Puerto Rico and she has been a member of the Air
 13 and Water Subcommittee and the former Chair of the Public Participation
 14 Subcommittee.
 15 (Presentation of award.) (Applause.)
 16 MR. LEE: Bunyan, you didn't get a picture?
 17 PROFESSOR BRYANT: No.
 18 MR. LEE: Bunyan wants a picture with me.
 19 (Taking of picture.)
 20 Okay, great
 21 Charles Miller just walked in so we want to recognize him for his
 22 service on the Indigenous Peoples Subcommittee. Charles.
 23 (Presentation of award.) (Applause.)
 24 MR. LEE: Next we have Gerald Torres. Gerald is not here, right?
 25 Okay.
 26 Damon Whitehead who has been a member of the Executive

1 ways to making sure that the U.S. Environmental Protection Agency
 2 stays honest in its mission to achieve environmental justice for all
 3 Americans.
 4 And, Haywood, I think we owe you a real debt of gratitude for the
 5 past four years of service to the NEJAC. Haywood.
 6 MR. TURRENTINE: Thank you.
 7 (Presentation of award.) (Applause.)
 8 MR. LEE: And make sure you get a picture of everybody.
 9 (Applause.)
 10 MR. LEE: Thank you. Thank you, everyone. And if you all stay
 11 nice this afternoon, we might even send you the pictures.
 12 (Laughter.)
 13 MS. SHEPARD: Charles, while we have everyone here, I would
 14 just like to say a few words.
 15 First of all, this is a sad occasion because so many of my
 16 colleagues are rotating off, strong colleagues who have spent their time
 17 and energy on this FACA.
 18 But it's also very disappointing and I am extremely angry that the
 19 people who are head of the Office of Environmental Justice are not here
 20 to personally distribute these awards.
 21 I also feel that the committee chairs, you all deserve so much
 22 acknowledgement. Luke Cole from Enforcement, Tom Goldtooth from
 23 Indigenous Peoples, Arnaldo Garcia who is not here, Marinelle Payton.
 24 Marinelle, where are you? Outside? And Michel Gelobter who just
 25 resigned as Chair of Air and Water a few months ago.
 26 The amount of work, the amount of conference calls, the amount of

1 Council and the Air and Water Subcommittee. Damon is not here.
 2 Do we have Michel still or Marinelle?
 3 PARTICIPANT: (Inaudible.)
 4 MR. LEE: It would be really nice if she were able to.
 5 What happened to Michel? What happened to Michel Gelobter?
 6 PARTICIPANT: He's not here right now.
 7 MR. LEE: Okay. Well, we're waiting for Marinelle.
 8 (Pause.)
 9 MR. LEE: We're waiting on somebody. Okay, we have to really
 10 apologize. One of the members of the Executive Council who is going
 11 off is Don Aragon. I guess we're going to have to mail you your plaque
 12 unless you're willing to take the chairperson's plaque. So you come on
 13 up.
 14 (Applause.)
 15 MR. LEE: Here. So why don't you hold it.
 16 (Presentation of award.) (Applause.)
 17 MR. LEE: Thank you, Don.
 18 Lastly, I want to recognize your chairperson for the past four years --
 19 three years, right? Four years. You know who he is and I just want to
 20 say that throughout these four years, Haywood, you've been a real asset
 21 to the issues of environmental justice, you served in a wonderful way as
 22 a chairperson of the NEJAC. It hasn't been easy through these last four
 23 years. There's been a lot of very difficult issues to address. I've always
 24 said, and this speaks to all the members of the NEJAC, environmental
 25 justice, if anything, is not an easy issue.
 26 So you've all worked, you know, in very dedicated and committed

1 written materials, the amount of meetings that being a subcommittee
 2 chair takes is incredible. These people are working pro bono and I
 3 believe they deserve more recognition than we are getting here today
 4 having these acknowledgements basically to ourselves and to an empty
 5 room.
 6 I would just like to say that as the new Chair of NEJAC I am very
 7 disappointed and we have got to begin to do a better job, and I hope that
 8 this is not a reflection of the esteem in which the EPA holds this FACA.
 9 So I would just like to say thank you. I hope I'm going to have your
 10 counsel and support over the next years. I will need it, we will all need
 11 it, if we're going to have an effective NEJAC if we're all going to still be
 12 here in a few years. So, thank you all.
 13 (Applause.)
 14 MR. LEE: That was very nice.
 15 Well, last but definitely not least, the one with the grand entrance is
 16 Damon Whitehead, a member of the Air and Water Subcommittee.
 17 (Presentation of award.) (Applause.)
 18 MR. LEE: You know what, if you can get a picture of Damon with
 19 everyone.
 20 (Taking of picture.)
 21 MS. SHEPARD: Haywood, as the outgoing chair I know you've got
 22 some words to say, and I think we should hear from you.
 23 MR. TURRENTINE: To the chairs of the subcommittees that are
 24 going off, a very special thank you for all the hard work that you've done.
 25 Oftentimes I get much of the credit and most of the times you do all the
 26 work, so I really, really want to say thank you.

1 And to the other members of the Council and the subcommittees
2 that are going off, you truly make being the chair of this Council enjoyable
3 and certainly doable.

4 For whatever we've accomplished in the last four years that I've
5 been the chair, it could not have happened without the untiring work and
6 effort put forth by an awful lot of people.

7 I say to the Council, though things seem this week to be somewhat
8 bleak in this room and outside this room, God is still on the throne, will be
9 the final answer to all of our concerns, and we need not worry. But
10 because we need not worry is no excuse for us to stop kicking butt and
11 doing what has to be done for the constituents that we represent.

12 None of the things that have happened with, for, and by NEJAC
13 would have happened in the agency had it not been for sustained effort
14 on the part of an awful lot of people. EPA has done some remarkable
15 things in the last four years, but I don't think they did it because they
16 woke up one morning and said, "This needs to be done." They did it
17 because of the agitation and the cajoling that we've done.

18 I would implore each of us in whatever capacity that we find
19 ourselves, that we continue to agitate, to cajole and if necessary, go to
20 battle, because there is much to be done. There are some rough roads
21 ahead. And if we are to save and preserve this environment for the
22 people that we love and hold dearly, it's going to require an incredible
23 amount of work on all of our parts.

24 I've enjoyed it. I've probably irritated some people. I apologize for
25 that. I apologize for your feeling irritated, not necessarily for what I had
26 to do as Chair that may have caused your irritation. My intent was not to

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1 irritate you; my intent was always to get things done in an orderly fashion.

2 So I apologize to any of you Council members or the public or the
3 staff that I might have offended in any way. It was certainly not my
4 intention. But when I took over as Chair of this Council, I took over with
5 the express desire to move this entity to a point that we had heretofore
6 not gone.

7 Again, we didn't accomplish all we wanted to accomplish, but we
8 have had some fun, especially some late nights when we were having
9 our caucuses unofficially. This has been an incredible experience. I've
10 met people that I would not have met had it not been for this process.
11 I've formed relationships and I've been able to network as a result of this
12 process.

13 And so if it appears that we are upset, angered by what appears to
14 be a lack of respect, it is because we hold dearly this process and what
15 it has enabled us to do. And because the process has been good for us,
16 good to us, we double-dog dare anyone to try and take it in another
17 direction. When that happens, you raise the ire of all of us.

18 Peggy, I've had the distinct pleasure of working with you as the Vice
19 Chair of this Council and I can't say enough about my respect for you,
20 Peggy, and what I think you bring to this movement. I would encourage
21 you to stay true to yourself, continue to do the things that you've done,
22 and persevere.

23 The job that is yet before you is doable and I think with proper
24 involvement and continued commitment on each of your parts we can
25 move far beyond the accomplishments that have been made in the last
26 four years. The years to come can be beautiful years and I can come

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1 back and sit out in the audience and wish like hell I was up here at the
2 mike to shut somebody up. That's the fun part of it.

3 Thank you all so very much.

4 (Applause.)

5 MS. RAMOS: Mr. Chair.

6 MR. LEE: There are a number of people that -- I think, first of all,
7 Haywood, we're ready for a break because the hotel staff says that they
8 can fix the microphones. But before that, I do want to make sure that
9 read into the record are those persons who are members of the Council
10 who were not able to be here.

11 First, of course, is Gerald Torres, Beth Hailstock, Clydia Cuykendall,
12 Brenda Lee Richardson, Lillian Mood, Johnny Wilson, Michael
13 DiBartholomeis who is on the Health and Research Subcommittee,
14 Arnoldo Garcia, the Chair of the International Subcommittee, Robert
15 Holmes, Maria Carmen Lebron, Sarah James, and Michal Holmes.

16 Lastly, before we break, I just want to also take the privilege of
17 recognizing one of those persons who was not here -- was outside
18 because she had an emergency -- who is the Chair of the Health and
19 Research Subcommittee, a person who has been highly dedicated to the
20 work of that subcommittee, and a person, in fact, you should know, that
21 really wants to continue and we might perhaps be able to accomplish that
22 still. Certainly I think it is remiss on the part of the Council not to
23 recognize her even though she wasn't here for the presentations.

24 So, if I can, I want to present this plaque to Marinelle Payton, the
25 Chair of the Health and Research Subcommittee. Come on, Marinelle.
26 (Presentation of award.) (Applause.)

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1 MS. AUGUSTINE: Haywood, I would also like to state that the
2 Health and Research Subcommittee has requested that Dr. Marinelle
3 Payton's term be extended one more year. It can be done according to
4 the Bylaws. I think that maybe this committee should decide whether she
5 should stay or not.

6 MR. TURRENTINE: Is that a motion?

7 MS. AUGUSTINE: That is a motion.

8 MR. COLE: Second.

9 MR. TURRENTINE: It has been properly moved and seconded that
10 this committee recommend to EPA that Dr. Marinelle Payton be extended
11 for one year as Chair of the Health and Research Subcommittee.

12 Any unreadness on the request?

13 (No audible response.)

14 MR. TURRENTINE: Ready for the question?

15 MR. ARAGON: Call the question.

16 MR. TURRENTINE: All in favor, let it be known by a raise of hands.
17 (Show of hands.)

18 MR. TURRENTINE: There is a unanimous show of hands. If you
19 notice, I couched this motion as a recommendation because that's what
20 this body can do. But I think now that we've made a motion, we've
21 carried that motion by unanimous consent, that we now need to do what
22 we do best to make it happen.

23 MS. TRAVIS-MILLER: Haywood?

24 MR. TURRENTINE: Yes?

25 MS. TRAVIS-MILLER: Does she have to give the plaque back?
26 (Laughter.)

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1 MR. TURRENTINE: I think you'll have to give your plaque to Don
2 Aragon because he didn't get one.

3 (Laughter.)

4 MS. RAMOS: Mr. Chair.

5 MR. LEE: You know, there's a tradition at EPA, we learned, that
6 people who say that they're going off or retiring don't actually do so. The
7 best example of that is your former director of the Office of Environmental
8 Justice who is here in the audience but has --

9 (Applause.)

10 MR. LEE: -- has had I think at least three retirement dinners.

11 (Applause.)

12 MS. RAMOS: Mr. Chair.

13 MR. TURRENTINE: Marinelle wants to make a statement. I think
14 it is appropriate that she make that statement, on the condition that you
15 don't cry.

16 (Laughter.)

17 MS. PAYTON: Well, as a physician I must say that the lacrimal
18 gland that secretes the tears actually needs this occasionally in order to
19 function properly.

20 (Laughter.)

21 MS. PAYTON: I didn't expect this moment, and I am touched. Here
22 I am a grown person and when I saw the hands go up, I was just deeply
23 moved and wanted to appreciate each of you. It's amazing.

24 My mother who is no longer living said to me before she died that
25 all her life she had prayed that I be in the midst of those people who God
26 would want me to be in the midst of, true friends. I'm speechless.

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1 To each of you, you will never know how much I really appreciate
2 this because I feel that the subcommittee is at a point where by my
3 remaining on, it will help to continue the goals.

4 I wanted to share with you the letter that the subcommittee
5 members wrote asking for my extension. This is a letter that I received
6 a couple of days before I came here to the NEJAC meeting. I did come
7 here after reading this letter, thinking that it was my last. Again, I thank
8 you so very much. I'm going to pass out the letter now.

9 Also, you've noticed that on the top is my response to the letter that
10 came from Mr. Hill's office. Thank you.

11 MS. RAMOS: I think that there is a group of people who really
12 deserve recognition. It's people that worked inside the environmental
13 justice office. Also, --

14 (Applause.)

15 MS. RAMOS: Also, the people that work inside the agency as EJ
16 coordinators and technical people in all types of, you know, different --
17 doing different tasks, people who do have a commitment to
18 environmental justice, I want to tell them don't feel sad for us because of
19 what is happening now here today in this meeting, don't apologize
20 because we know who you are, and if you watch us closely -- you know
21 who we are, we are community people, we are activists, and every
22 opportunity we have to straighten things out, to denounce what's wrong,
23 believe me, we're having a ball. So don't feel sad for us.

24 (Applause.)

25 MS. STAHL: First of all, Rosa, what do you mean we were having
26 a ball?

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1 (Laughter.)

2 MS. STAHL: Some of us are staying behind here, you know.

3 A couple of things. First of all, I would like to thank the fellow
4 members of the Executive Council for their support of Dr. Payton's
5 request for extension of her appointment. Her leadership on that
6 subcommittee I think is critical, and it's nice to know that it's been
7 recognized more universally.

8 I would also urge that we not lose sight of something that Haywood
9 mentioned this morning, as we -- hopefully before we leave today, and
10 that is the whole question of how appointments are made to this
11 committee and whether or not this Council has a voice in not only
12 recommending people to be on the Council but on a vetting, if you will,
13 of who is actually asked to be a member of the Council and their
14 subcommittee appointments and the like.

15 I mean, I have no doubt that we will stay interested in the issue, but
16 I think that it needs to be raised by some of the very strong leadership
17 that's leaving so that those of us who are staying behind know that that
18 baton is being passed as well.

19 MR. TURRENTINE: Why don't we take a break and also allow the
20 hotel people to fix the microphones for us.

21 I've got 25 minutes till the hour. Why don't we come back at ten
22 minutes till.

23 (Recess.)

24 NEJAC GENERAL SESSION RESUMING

25 BUSINESS REQUIRING EXECUTIVE COUNCIL ACTION

26 MR. TURRENTINE: Can I ask the Council members to take their

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1 stations, including Peggy.

2 MR. LEE: Is Marty Halper here? Can you make sure Marty is here.

3 MR. TURRENTINE: Just a bit of administrative details.

4 For those on the Council who are leaving today and who have not
5 checked out, Rene is going to pass a list around and I'd ask you to put
6 your name on that list. What she's going to do is go to the front desk and
7 get a courtesy extension until 1:00 for checkout time. So, just members
8 of the Council who have not checked out and you're leaving today,
9 because it looks like Steve Herman will be here at 12:00 and we would
10 need to be here when you would normally have to check out. So we're
11 going to get a one-hour courtesy extension.

12 MR. LEE: Haywood, I would say that -- it's about 11:10 -- go for
13 about 20 minutes to 25 minutes because Steve is going to be here at
14 11:30 or thereabouts and he asked that he have some time to speak with
15 me. And then at that point we can break for a half an hour. So it would
16 be about 12:00 at that point. You can then go check out when Steve is
17 here, for about 12:00. And then convene and have that dialogue with
18 him.

19 On your agenda there are two things. One is just a short -- and I'm
20 going to make it real short -- review of the policy issue discussion that
21 took place on the first two days of this NEJAC meeting. Secondly, we
22 wanted to just have a short presentation around the report that all of you
23 have that's gone through a process of review by the NEJAC as far as the
24 last meeting which focuses on community-based health research models.

25 As far as the focus of this meeting, you know, obviously the meeting
26 was intended to address the question of what progress has been made

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1 in integrating environmental justice across the federal family consistent
2 with Executive Order 12898 and existing laws.

3 I mean, that's a very complicated -- it's a huge set of issues. You
4 know, being both a retrospect and prospective look at this set of very
5 important questions, I thought that, first of all, it does really bring forth the
6 point -- the importance of integrating environmental justice across all the
7 federal agencies because environmental justice issues, are by their very
8 nature, multi-issue and multi-faceted. I think that came through.

9 I would just say that the federal agencies that came and the
10 testimony that they presented in my opinion had a very important effect
11 of presenting a pretty credible record of both the imperative -- the need
12 and imperative for integrating environmental justice across all the federal
13 families, as well as significant developments and accomplishments and
14 commitments.

15 That, to me, is really very important at the point of the transition to
16 a new administration because that in and of itself is something that in my
17 opinion cannot now be ignored, which I think is one of our goals for this
18 meeting.

19 The second is obviously --

20 MS. AUGUSTINE: Charles.

21 MR. LEE: Yes?

22 MS. AUGUSTINE: Charles, could you please talk a little closer to
23 the mike. We can't hear you back here.

24 MR. LEE: The second is that, you know, this interagency
25 environmental justice action agenda in terms of a collaborative process
26 towards addressing environmental justice issues has been presented to

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1 you, and I think the validity and the wisdom of such an approach is
2 without question.

3 I think it was very important to us that we are able to begin to show
4 that these are producing demonstrated successes. That, too, then is
5 something that is important -- for the record to build upon.

6 The third is that, you know, as we look to the future, the importance
7 of, you know, viewpoints from all different stakeholders, including
8 business and industry, in the words of Pat Wood who presented Sue
9 Briggum's prepared remarks, as well as state and local government,
10 Tribes, and community groups as far as both the validity and the need to
11 continue this type of effort.

12 So those are the three points that I thought were things I wanted to
13 summarize as far as the first two days.

14 The only thing I wanted to add to that was that part of the discussion
15 centered around an exploration of, you know, how to use -- what are
16 ways to use existing laws with respect to the integration of environmental
17 justice not only in the environmental context but also with respect to
18 federal agencies. I thought that that was a very important dialogue with
19 a lot to build upon looking prospectively to the future.

20 So, with that, I would just stop. I guess if you want, Haywood, we
21 can take some comments. We are short for time.

22 We have in the agenda a report on the last NEJAC meeting which
23 focused on community-based health research models. You have
24 received I think at least 30 days ago a copy of the report.

25 That went through a process of discussion with members of a work
26 group that was chaired by Marinelle Payton and staffed by Marty Halper

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1 who is here to my left and Gary Carroll from the Office of Environmental
2 Justice.

3 I want to thank all those people that worked very hard on that report.
4 The work group also included many of the persons who were presenting
5 to you from other federal agencies. Part of the real progress from the
6 last meeting is that growing collaboration in an active and ongoing way.

7 Before I turn it over to Marty and Marinelle, if she so chooses to
8 make a few comments, I just want to also point out the fact that a very
9 significant development as a result of the last meeting was an important
10 work shop that was hosted by a number of federal agencies,
11 spearheaded by the Indian Health Service, that took place.

12 Along with that, there was a significant set of recommendations in
13 terms of environmental health in Indian Country. That is part of an
14 appendix in your report and I think has been put forward to you and
15 actually voted upon I know in terms of recommendations around health
16 and environmental health in Indian Country for Native American and
17 Alaska Native communities.

18 So, with that, I would just turn it over to Marty to say a few words.

19 PAST MEETING POLICY ISSUE REPORT

20 MR. HALPER: Charles has already in a number of cases said some
21 of the things I was going to be saying. Basically the report, which is a
22 follow-up and trying to be based almost exclusively on the proceedings
23 of the May meeting, and drawing the recommendations and basing it on
24 what was said and what recommendations were made in discussions
25 both during the session of the Council as well as the various
26 subcommittee meetings. The process --

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1 MS. AUGUSTINE: Excuse me, but shouldn't the Chairperson be
2 giving the report?

3 MR. HALPER: Marinelle asked me to --

4 MS. AUGUSTINE: Oh, I'm sorry. Okay, Marinelle. Let me know
5 next time.

6 MR. LEE: If you want the Chairperson can give the report.

7 MR. HALPER: I'll be perfectly happy.

8 Basically the process started at the beginning of September putting
9 together a 20-person recommendations work group which included both
10 people from NEJAC, especially the Research and Health Subcommittee
11 as well as others, and, as Charles had indicated, a number of people
12 from the other federal agencies, including EPA, Health and Human
13 Services. It's a pretty broad group.

14 That group worked for a number of months, drew up a set of draft
15 recommendations. A draft report was put together. That then went I
16 guess about two months ago, after going through a number of review
17 cycles with the recommendations group, went as a draft to the Council
18 for review. They were given I guess about 45 days to review it. A
19 number of comments were received from the members of the Council.

20 Some significant changes were made based on those
21 recommendations, then a conference call was held I guess at the end of
22 November -- towards the end of November -- where we got some
23 additional comments and some additional changes were made.

24 On Friday the Council was e-mailed a copy and then hard copies of
25 the report were given to the Council on Monday.

26 Probably Monday or Tuesday of next week there will be again some

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1 slight modifications because there was some additional discussion of the
2 report at the Health and Research Subcommittee. Some additional good
3 suggestions were made during that meeting and some additional tweaks
4 I think will be made to the document.

5 That will then go out at the beginning of next week with a ballot and
6 there will be a request for a vote by the Council on the report at that point.

7 MR. LEE: Is there a copy of that report (inaudible)?

8 MR. HALPER: Does anyone have any questions?

9 Tom.

10 MR. GOLDTOOTH: The only question I have -- I've seen the
11 document and I think it's excellent.

12 I have a question for Charles. Charles, the attachment -- I know
13 they included the comments that the Indigenous Peoples Subcommittee
14 made, right, on the health -- environmental health issues and research
15 needs, okay, and I appreciate that -- our members appreciate that, that
16 those comments were made and attached to the document. Right?

17 MR. LEE: Right. Yes.

18 MR. GOLDTOOTH: We also understand that when we submitted
19 that document from our subcommittee we asked for the ballot vote to
20 support our document.

21 So what we are proposing to you is that it proceed on its path with
22 your initiative as an attachment. However, we want to make sure that it
23 goes also as a stand-alone document to the Administrator. Okay?

24 MR. LEE: Yes. That's absolutely the case. You know, I think we
25 have, in consultation with you and the Indigenous Peoples
26 Subcommittee, we wanted to make sure that that has its own integrity.

1 I mean, that if we were just to subsume it under the larger report, it loses
2 a lot and it loses the various significant and special and unique issues
3 related to Native American communities.

4 So, therefore, it is going to be a separate document that's being put
5 up for a vote by itself. But also, it's going to be integrated into the large
6 one in terms of both an appendix and, I think, if I am correct about this,
7 many of the recommendations where they apply.

8 Marty has more details.

9 MR. HALPER: I wanted to comment. It's much, much more a part
10 of the document than just an appendix. The entire document is cited as
11 an appendix, but I would say probably close to a third of the specific
12 recommendations in the report, in the report itself, are drawn verbatim
13 from the Indigenous Peoples Subcommittee. So a large portion of the
14 specific recommendations in the body of the report come directly out of
15 the subcommittee report.

16 MS. PAYTON: Just to briefly respond to the five areas of
17 recommendations that are included in the document -- let me just give a
18 little background history first.

19 The Health and Research Subcommittee was instrumental in
20 deciding on a focus for the May 2000 meeting. There were several
21 opportunities for comments from all subcommittee members. We
22 actually had three major issues, and of those major issues it was felt that
23 health care as well as community-based participatory research be one of
24 the important focuses of the May 2000 meeting, as we recall.

25 Out of the May meeting, based on the numerous interviews, the
26 panel discussions and subsequent meetings, it was concluded by those

1 of the work group which consisted of members of NEJAC, et cetera, that
2 community-based participatory research -- that there be a
3 recommendation to the Administrator to form an interagency task force
4 on community-based participatory research, in particular to consider how
5 to build a more collaborative effort in communicating with communities
6 on research.

7 In doing so, it was also suggested that there be a universal definition
8 of community-based participatory research. As you all know, the term
9 community-based research has different meanings to different people, be
10 it scientists, communities, et cetera.

11 Also, the second recommendation consisted of helping to define
12 scientific data to provide data to fill the numerous data gaps in research
13 that we have.

14 The third recommendation is that there be more interagency
15 collaboration.

16 The fourth is to include socio-vulnerability issues in the
17 decisionmaking process.

18 And the fifth one is to provide health care to communities.

19 MR. LEE: If there are no questions, I just want to make sure we --
20 and I might not get everyone -- recognize the members from this Council
21 who are members of that work group. They are Rose Augustine, Jane
22 Stahl, Carlos Porras, Pat Wood and Peggy Shepard, as well as Marinelle
23 Payton who is the Chair.

24 We should probably recess. Rose has something to say.

25 MS. AUGUSTINE: Is this a report back from the subcommittee?
26 Is that what we're doing right now? No? Because there's a real

1 important issue that I would like to raise regarding the Health and
2 Research Subcommittee and it's regarding one of the projects that we've
3 been working on for some time now. I think it's -- Dr. Marinelle Payton,
4 who is the Chair, I think it's her responsibility to give this report, please.

5 MR. TURRENTINE: Rose, what we might do is give you and your
6 subcommittee additional time, once we do the subcommittee report
7 backs, so that we can adequately cover that. If we attempt to get into it
8 now, we're going to give it at best three to five minutes, and that I don't
9 think would be --

10 MS. AUGUSTINE: Okay, I just want to make sure that we have
11 plenty of time to discuss this.

12 MR. TURRENTINE: Yes. This was not supposed to infringe upon
13 any of the subcommittee's report back period. And we'll do that as soon
14 as we have our break and then our session with Steve Herman. Then
15 we'll do the subcommittee report backs and business that the Council
16 has to take care of.

17 Is that okay with you

18 MS. AUGUSTINE: Yes.

19 MR. LEE: So, Haywood, at this time I think I would recommend that
20 we break for half an hour and reconvene at 12:00, at which point,
21 thereabouts, you know, Steve Herman will be here.

22 MR. GELOBTER: If we break at noon and Steve Herman is here,
23 should we have lunch now?

24 MR. LEE: Yes. Yes. As long as you get back here about 12:00.

25 MR. GELOBTER: Okay.

26 MR. LEE: So eat fast.

MR. GELOBTER: Okay.

MR. COLE: There are excellent, if expensive, sandwiches up at the little place at the top of the escalator on the lobby level. Eight dollars for a sandwich and \$3.20 for a cookie.

(Laughter.)

MR. COLE: But they're very tasty.

MR. LEE: I would note for the record that Luke never did put any cookies on my room charge.

(Recess.)

NEJAC GENERAL SESSION RESUMING

BUSINESS REQUIRING EXECUTIVE COUNCIL ACTION

MR. TURRENTINE: I now note that we have a quorum and that we're back in session.

What we have that we're going to do this afternoon, at least at this juncture -- I want to frame the situation for us so that we can proceed and get the maximum results out of the time that we're going to spend together.

What I'm going to ask is for Jane Stahl to kind of open up with an overview of some of the concerns we've got; Peggy Shepard is going to do likewise for the benefit of Steve. And after they've done that, then I would ask Charles to introduce Steve and then Steve can make whatever remarks or comments he chooses. And then we'll open it up for questions and answers.

Jane.

MS. STAHL: Thanks, Haywood. Let me begin by thanking you, Mr. Herman, for joining us this afternoon. It is in fact a demonstration of the

concern that -- hopefully it's a demonstration of the concern that EPA shares with the NEJAC about our continuing ongoing efforts.

To kind of put this in perspective, I think that we on the Council were very much taken by surprise and were distressed by a presentation made earlier this week by Barry Hill -- not because it was made by Barry Hill but because it was a surprise to us -- with regard to a guidance document that had been in preparation by the Office of Environmental Justice with regard to environmental justice policy.

Our consternation was that here we sit as an appropriately constituted board with experience, expertise, and dedication to environmental justice whose mission is to provide guidance to the agency on environmental justice issues, and it was fairly late in the game that we were apprised of the development and the existence of this document. In fact, if I'm not mistaken, the way in which it was reported was that this was not yet a draft document that was ready for public consumption, but something that would by the end of this month be going to the Federal Register, and that the Council would have had no input, no opportunity to have framed the issues, outlined the kinds of items or elements that we would have recommended be covered in such a document, not to mention any of the substance that was contained in the document.

I'm sure that you can recognize our consternation at that point. The fact is that we assumed that it was our role to have input in the formulation of just these types of policies before they went to the general public and that we would have advanced opportunities.

And I think that that, without, you know, much more ado, really crystallized for us the concerns that we had as a group in how the agency

would be proceeding with the advisory council, not just on this document but, as I say, as crystallized by the presentation of this document, in various matters.

We are all fairly sophisticated folk here. We recognize that there is a change in administration coming which leads to on the one hand some urgency to move things before a new administration comes in and wants at a minimum the time to review its direction and perhaps identify a change of direction.

So we recognize that, you know, there is some pressure inherent in our times, but I think that that also leads to our pressure in assuring that this body will be utilized to the fullest extent possible and in a true partnership rather than allowing us to exist in a vacuum from some of the very good and dedicated work that EPA has been doing.

So I think what we're in large part looking to you for at this juncture is a recommitment to the partnership between the Office of Environmental Justice and the NEJAC, and a definition of that working relationship so that we know what to expect as we move forward to grapple with the various issues that make up that thing we call environmental justice.

MS. SHEPARD: It's good to see you here today, Mr. Herman.

I think Jane Stahl has given you a very good overview of an issue that came to our attention just several days ago. But what I would like to address are some of the concerns that many members of the FACA have had over the last year and a half that have really begun to fester because those of us who have been involved with the NEJAC over a number of years now realize that there has been a gradual roll-back of our input, of

any collaboration, of consultation with us on a number of very critical issues such as membership of subcommittees, how they are chosen, the numbers of -- the distribution of environmental justice members to industry members, for instance. And there are many members here who can go much more into detail on individual committees about that issue.

Issues of site selection. When we first began on NEJAC there was an opportunity for communities to attend meetings in a variety of regions, an opportunity to highlight regional issues and concerns, and for us to actually visit particular facilities to get a first-hand account of some of the issues that are affecting communities.

We no longer seem to have a vote on where we will hold our meetings. We no longer seem to have input into the agenda of a day like this, the very agenda that we are involved in today.

So there are a range of issues we would like to discuss with you today and there are many members here who are prepared to do that.

MR. TURRENTINE: And, Steve, I too would go on the record in thanking you for coming. In fact, were you not able to come, I think the meeting would have been over three hours ago. That's how strong the Council felt about getting a response or at least getting you ear on some of these very substantive issues that are causing us some concern.

Now, for those of us that are going off the Council, we could just take the position that, oh, well, I've done the best I can and leave it to those that are going to remain in whatever capacity this body takes. But we didn't come to this Council for any other reason than one of which we cared dearly about the issues that have been brought to us by the public, and we care about our communities and our communities' concerns.

1 We care so much that we were willing to discontinue this meeting
2 if we weren't able to have an audience with senior EPA staff people who
3 could really address some of our concerns.

4 And I think I would be remiss if I did not point out that I have not
5 spoken to one single member of the Council who didn't express some
6 grave concerns about these apparent and seemingly roll-back role that
7 NEJAC is playing with the Office of Environmental Justice on issues
8 involving environmental justice.

9 Charles, I think at this point, if you would give Steve the appropriate
10 introduction, we can have remarks from Steve and then we'll open it up
11 for questions.

12 MR. LEE: Thanks, Haywood.

13 I wanted to say a few words. Obviously there's no need to formally
14 introduce Steve Herman. You've known him for many years. He's been
15 actively engaged with this Council and issues.

16 I do want to say that you all know that he is a friend of
17 environmental justice. I mean, he's been a real strong advocate for it
18 both inside and outside the agency.

19 I was going to -- I had wanted to, because this was going to be
20 Steve's last meeting as the Assistant Administrator for Enforcement for
21 EPA, the office in which the Office of Environmental Justice is housed,
22 to say, just like I paid tribute to Tim Fields, you know, how much I had
23 appreciated that kind of support.

24 When Steve heard of your request to meet with him, there was
25 absolutely no hesitancy about him wanting to come. So, with that, I just
26 would turn it over to you, Steve.

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1 MR. HERMAN: Thanks, Charles.

2 Let me start by saying two things. First, when I was called this
3 morning and asked to come to meet with you, I didn't hesitate to do it for
4 a couple of reasons. One is that, you know, I have tremendous respect
5 for the individual members of the NEJAC and for the NEJAC as an
6 institution. And, secondly, even though I guess I'm even more of a lame
7 duck today than I was yesterday, and as equal a lame duck as Haywood
8 and some of you, I very much -- I'm very, very proud of the work that has
9 been done over the past seven years in the agency and with the NEJAC
10 and I desperately want it to continue. I don't want it to flounder or
11 decrease over issues that can be fixed, that can be repaired, that can be
12 better understood.

13 I appreciate the fact that you didn't adjourn this morning and that,
14 you know, we have the opportunity to meet this afternoon and I look
15 forward to hearing what the concerns are, having some discussion. I'm
16 not sure just what can be decided, you know, just in the afternoon in a
17 session like this, but certainly understanding what exactly is on your
18 mind.

19 I also want to say up front, one, how much I appreciate the work that
20 Haywood and others have done.

21 One of the things that I am very proud of and that I want to say up
22 front also is the investment in the staff that we have made within EPA
23 and EJ both at the headquarters and the regional level, and of how proud
24 I am to have been -- to be able to leave having people such as Barry and
25 Charles at the helm in the EJ Office.

26 I think that we should -- you know, I know that we will have -- you

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1 know, this is a discussion among people who share some very, very
2 fundamental values. And while there are -- you know, all of us have
3 disagreements and have some very serious disagreements, we shouldn't
4 forget about -- you know, shouldn't forget, one, the shared value,
5 shouldn't forget all that has been built thus far and should make sure that
6 whatever we do following this meeting builds on what we have done.

7 So, without further ado, let me turn -- you know, let me open it up
8 and turn it back to Haywood and you all and continue the discussion.

9 MR. TURRENTINE: Rosa.

10 MS. RAMOS: Mr. Herman, you know that I'm a community
11 member, I'm a housewife. I'm a volunteer and I work for an abused
12 community such as many communities that are the reason for NEJAC to
13 exist.

14 When I told you yesterday that you should be proud of the
15 successes of NEJAC, I really meant it. We are a living example of
16 NEJAC can accomplish in order to get some justice to be done in a
17 community which has suffered for years because of injustice.

18 I want you to know that we acknowledge that Mr. Barry Hill has, you
19 know, done good work in many areas, such as the getting the Office to
20 get expanded. We know that he has fought for NEJAC to have more
21 presence within the agency. We know that. And also, we know that he
22 has given all type of fights on behalf of the continuity of NEJAC.

23 But we are very unhappy to see that at some point he decided to
24 develop all by himself a guidance on environmental justice, denying the
25 very essence of what environmental justice is, that is, to include the
26 affected communities, the abused communities, such as us, in the

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1 process of decisionmaking and developing guidances and rules that
2 eventually will affect the communities.

3 I think that his actions are very disappointing, disrespectful for
4 NEJAC, disrespectful for the EPA officials who have worked so hard to
5 make this a reality.

6 I really think that he has behaved just like an aristocrat. Such a
7 snobbish action I think deserves an award. And that's why I prepared
8 this recognition. I'm going to award Mr. Barry Hill the Prince Charles
9 Award.

10 (Laughter.)

11 MS. RAMOS: Because of his snobbish action of ignoring our
12 participation. You know, he's telling us that we are not capable of
13 producing anything intelligent, meaningful as part of a guidance. I feel
14 offended.

15 If I would be Mr. Hill, I would come right here, even in a stretcher, to
16 organize a work group and review this guidance before January the 1st
17 as to really represent what the communities need to be a guidance.

18 (Applause.)

19 MR. TURRENTINE: Vernice.

20 MS. TRAVIS-MILLER: Steve, I too -- and I think you've heard me
21 say this many times -- the experience of the Waste and Facilities Siting
22 Subcommittee has perhaps been one of the high watermarks of the
23 NEJAC in terms of the relationships that we have developed with the
24 Office of Solid Waste and Emergency Response from the top to the
25 bottom, from every level of the agency both at the regional level as well
26 as the headquarters level.

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1 We have made some extraordinary advances and I hope you'll be
2 here subsequent to this conversation to hear the report back of some of
3 the many things that we've done.

4 However, over-girding that is our role around policy, and I believe
5 Jane raise the issue and the question earlier. I've been trying to think
6 about this and frame it contextually as to why am I so upset about the
7 particular exchange that Barry and I had.

8 Now, the exchange that Barry and I had was not a disrespectful
9 exchange, but it was certainly one of profound disagreement about the
10 role of the NEJAC.

11 The question that I asked Barry on Tuesday closing our morning
12 conversation was: Is the NEJAC a FACA whose responsibility includes
13 advising the Environmental Protection Agency on issues pertaining to
14 policy matters regarding environmental justice issues?

15 And Barry's response was a declarative, no, it is not.

16 So now I want to read to you from our Bylaws under Section 3
17 Mission and Scope:

18 "The NEJAC, EPA's national advisory committee, formulates
19 recommendations and advice on environmental justice policy and
20 direction."

21 So I believe that factually Barry is wrong. But it's more than simply
22 a turn of phrase or a semantic discussion or interpretation. It goes to the
23 heart of what is the role of the NEJAC.

24 And for those of us who sit on this Council and those of us who have
25 sat on previous Councils, if we didn't think that our role was to provide
26 counsel to the agency about environmental justice policy issues, then we

1 wouldn't need to be here volunteering the thousands of hours that we
2 have volunteered, the thousands of hours that we have volunteered to the
3 agency to help do exactly that.

4 So, in trying to frame contextually why am I angry and how can I go
5 forward, it struck me that this was the parallel situation. When the
6 agency did exactly the same thing in developing the Title VI policy
7 guidance, that is, develop the guidance and did not consult with any of
8 the stakeholders, industry, state and local government went ballistic
9 about the fact that a guidance had been developed without their
10 consultation.

11 And immediately upon communicating their anger to the agency, the
12 Administrator withdrew the guidance and then staffed up the Office of
13 Civil Rights -- of course, something we have been asking for for at least
14 five years, but that's just a subtext -- began to develop a process and the
15 Office of Civil Rights under the direction of Ann Goode created a parallel
16 FACA to the NEJAC to vet the issues around the policy development of
17 the Title VI guidance -- in response to the request from industry, state
18 and local graduate -- not in response to the concerns of the National
19 Environmental Justice Advisory Council, an environmental justice
20 advocate. It was not us that the agency was responding to.

21 So today, or Tuesday, we are in a discussion around the mission of
22 the NEJAC and we are led by the Director of the Office of Environmental
23 Justice that it is not our role to advise the agency on environmental
24 justice policy.

25 This is a profound contradiction. And so when I say it's more than
26 a matter of semantics, this is what is our role, what have we been

1 engaged in in this process, and how do we go forward from this point
2 forward.

3 So we felt that we needed clarification from the person who's at the
4 top of the food chain, and, Steve, you are in the lucky position -- for the
5 next weeks, that is you.

6 MR. HERMAN: Right. Let me, you know, without interrupting others
7 -- or cutting off other people -- let me address that for a second.

8 I don't know if we're caught in a game of semantics, or whatever.
9 Your quote from the Bylaws is absolutely accurate, and I don't know
10 exactly what the interplay is with the Charter and I am certainly not a
11 legal expert with regard to, you know, the Federal Advisory Committee
12 Act, the FACA law.

13 What I do know is that the agency -- that the FACA is there -- is
14 here, this FACA and others, to advise the agency on all matters -- and,
15 you know, I certainly include policy among matters, and I think -- you
16 know, I would be surprised if Barry didn't -- but, matters, you know,
17 includes policy and a lot of policy approaches, means, whatever -- that
18 the agency requests advice on.

19 The agency doesn't have to request advice on everything -- on
20 everything regarding environmental justice or on everything regarding
21 waste, or whatever, from this FACA or another FACA.

22 That does not preclude members of the FACA in different capacities
23 from offering, you know, comment or whatever else in other contexts.

24 And the guide which has been developed for assessing and
25 addressing complaints, which was requested - which was requested
26 primarily by regional people -- and I've been out to the regions both with

1 and without Barry in discussing this and other things -- this document is
2 in response to those requests.

3 It is certainly not -- it's certainly not final, and it's out for -- you know,
4 it will be -- you know, the way it's proposed right now, it's proposed to be
5 out for comment. I don't think -- and this is, you know, my own
6 knowledge -- you know, it has been looked at by people within the
7 agency. It has not been looked at by people outside the agency.

8 You know, I think one of the things to discuss is the question,
9 Vernice, that you raise, and that's, you know, what are the issues that the
10 agency and the Office of Environmental Justice expect to deliberate on,
11 you know, request advice from the FACA -- what kinds of things are
12 going to be discussed and whether or not -- you know, I think that's a fair
13 question and that's something that's going to have to be -- if you see a
14 change, that's something that's going to have to be worked out, you
15 know, with the agency for you and for the other members of the FACA to
16 determine whether it's satisfactory and worth the hours that you have so
17 generously and I think valuably put in.

18 MS. TRAVIS-MILLER: But, Steve, I --

19 MR. TURRENTINE: Hold on a moment, please.

20 MS. TRAVIS-MILLER: Sure.

21 MR. TURRENTINE: Steve, I don't doubt the accuracy of your
22 statement, but I can tell you that it does not coincide with the information
23 we have received that this document has been shared with people
24 outside the agency, that it was shared with industry and state
25 representatives.

26 MR. HERMAN: Well, all -- I mean, all I can say on that is what I

1 have been told and I know. You know, what I know is what I've been told,
2 and I've been assured that that was not the case.

3 I mean, I'm telling you that in good faith and I believe it.

4 MR. TURRENTINE: Well, and I believe you're telling us that in good
5 faith. And I think therein lies the problem.

6 Therein lies the problem that brings us this discussion. The
7 information that is being shared in different circles by the same
8 individuals tend to be different for different audiences.

9 And if there's no confidence in the information that we get or in the
10 source of the information, then we have a major problem.

11 I know, for example, your reading of the Bylaws in terms of what
12 NEJAC is differs from what Barry's public statement was regarding our
13 role. His answer to Vernice, and we've got it on tape, we can play it
14 back, was, no, your role is not one of advising on policy.

15 Now, if he overstated the issue, for whatever reason, that's
16 problematic and can be corrected.

17 But if he in fact believes that and we, as a Council, tend to lean in
18 the direction that he does believe that because we see some of his
19 actions, and it leads us to believe that we have as diminished and
20 possibly irrelevant role any further.

21 MR. HERMAN: I -- go ahead, I'm sorry.

22 MS. WOOD: I would like to interject something here at the moment.

23 Luke is not speaking at the moment, but I will quote Luke from this
24 morning. And Luke has talked with four or five individuals who say that
25 three states have seen it and that industry has seen it.

26 Now, since I am the lone industry person here at the moment, I want

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1 to clear the record and say I haven't seen it. I have talked with NAM, the
2 National Association of Manufacturers, and they haven't seen it. And
3 BNEJ, which is the Business Environment Justice Network, hasn't seen
4 it.

5 And I think the people I talked with I have faith in, and I don't think
6 we've seen it. So that part of industry hasn't seen it.

7 I will say, though, that if I had seen it wearing my industry hat before
8 I saw it wearing my NEJAC hat, I would have been very upset because
9 I think there is an order here and I serve on this Council as other people
10 do because we think we are here setting aside our particular roles to a
11 certain extent and trying hard to work out some of these issues.

12 So I am upset personally that there is a rumor that industry has
13 seen this when supposedly nobody has. Again, it's a reflection of the fact
14 that we're somehow not in the system the way we're supposed to be.

15 MR. HERMAN: I don't know if there's a way to straighten this out.
16 I can just tell you that the representations that have been made to me by
17 -- you know, by the people that I think are the relevant staff at EPA -- is
18 that it has not been shared.

19 Now, whether somebody in the office went and leaked it to
20 somebody, you know, an unauthorized kind of leak, I don't know. I
21 certainly, you know, have gotten -- you know, I was disturbed when I read
22 the comment, as you were and Luke was. And I tried to determine, and
23 the best I could determine is that it wasn't shared and it certainly wasn't
24 intended to be shared.

25 You know, I don't know how we resolve that, you know, factually
26 right now. The intention certainly, as far as I -- and I believe this -- was

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1 not to share -- you know, not to exclude either the NEJAC -- or, forgetting
2 about the NEJAC for a second, you know, the stakeholders from the
3 community, other interested stakeholders and share it with industry or the
4 states or ECOS, or whatever. You know, I don't think that's the case.
5 But, you know, people believe what they believe.

6 MR. GELOBTER: I want to say, first of all, that I think -- at least
7 speaking for myself and a lot of the folks I've worked with on the
8 subcommittees as well as on the full NEJAC that a lot of us want to see
9 the FACA continue and continue working -- continue to work and
10 continue to work well.

11 A big mark of our trust, Steve, is that you're here. I remember the
12 day when we would stop the meetings until Bill Riley or Carol Browner
13 showed up, and then there were times we actually stopped a few
14 meetings until Al Gore or Bill Clinton showed up.

15 So the trust that that represents is that we believe at the agency
16 institutionally now through a variety of representatives, you in particular,
17 for example, can be trusted to speak honestly with us without having to
18 go all the way to the top to the elected official or the congressionally
19 approved top official.

20 So that's a change in how we've operated since at least back in the
21 early days, and I think it's a good one.

22 I also think that we want to -- I personally would like to see us fix the
23 problems that we have run across quickly because the days of the
24 administration are waning and we need to be able to move forward into
25 the future institutionally with the agency because the agency is not going
26 anywhere and we hope the NEJAC is not going anywhere.

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1 That being said, I have two pretty serious concerns. One is about
2 process and I'll give a couple of examples.

3 I've sat on a number of FACAs for the agency. Whether or not it
4 was given to industry or government, FACAs, with those representatives
5 on them, are meant to be treated legally as staff basically so that at any
6 time that the agency feels, or anybody within an agency, feels that there
7 is as work in progress, a policy work in progress, a lot of the release
8 requirements to the public do not apply to FACAs.

9 And when I see that used, it really bristles me. And I've only seen
10 it used on the NEJAC FACA, honestly, at different times. And it's a
11 concern. I don't see it on any of the other FACAs. On the other FACAs
12 there's an openness. Of course, we're not reaching in the people's desk
13 drawers for their first draft either, but that's not what we're looking for on
14 this FACA either.

15 Second of all, there is clearly a need for clarification of governance
16 processes. That's pretty dire, I think, at this point, given how sort of
17 control has moved from what I think was a fairly cooperative environment
18 at the time I got on to a more autocratic process.

19 My first experience of this was the commitment of the NEJAC to
20 come to New York City which had been made sometime prior to my
21 appointment and we were basically moved off that dime in a pretty
22 unceremonious and undemocratic way for a variety of shifting reasons.

23 So those are two examples of process concerns.

24 I think the trust issue -- I want to just -- if you'd look at the letter that
25 was sent back to Rose Augustine and Jane Stahl about the request for
26 Marinelle Payton's reappointment, the idea that we are -- the idea, for

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1 example, that -- one of the first paragraphs ends with, "Please, therefore,
2 be advised that in the future all recommendations to appoint or reappoint
3 a NEJAC member must be directed first to my attention."

4 I believe, as on every other FACA, that this FACA advises the
5 Administrator and the administration and if we're going to start waving
6 flags about the chains of command through which we have to go to
7 communicate with the agency, I don't think we're going to be able to be
8 effective.

9 The letter is bureaucratic. It's rude. To me it does not reflect what
10 is obviously attention that has to be struck between the agency's control
11 over the FACA and our consent to serve with people we believe are
12 representative of the various interests that have to be here and the way
13 that they have to be here.

14 My own experience as a Chair of a committee -- I was overwhelmed
15 by that work sometime towards the middle of this year and in a very open
16 process, I think -- well, pretty open process -- I worked out with the
17 agency, with Rob Brenner and with Charles Lee and with some of the
18 members of the Committee who could take my place, a succession
19 scheme. Maybe it may not have been the smoothest in the world, it may
20 not have been the most open and democratic in the world, but I felt like
21 there was communication and there was some continuity in discussion.

22 I don't see that in this letter at all, and that's a real problem to me.
23 So the issue of trust also needs to be resolved.

24 So I think two constructive things we can do because I don't think
25 we can hold the agency -- to my fellow FACA members, I don't think
26 we're in a wildly accountable period at Steve's level and above. Right?

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1 Clearly, the political appointees can't come back to us in June with better
2 answers. I think there are two things we can try to do in the interim
3 period.

4 The first is I think that the guidance needs to be given to this
5 committee, and frankly, at this point given to this committee with the
6 internal comments that have been received so that we can cogitate on
7 them and look at them because we don't want them disappearing down
8 a black hole or being published without our input, either way, at this point
9 in time.

10 Second of all, I think there should probably be a governance
11 committee or ad hoc committee formed for the next month or six weeks
12 to try to be a considerably more clear about things like theme choice,
13 location, reappointments, and to develop some more cooperative
14 procedures around how this stuff is done.

15 I think those are two things that would be a legacy that this
16 administration could leave that would ensure the NEJAC would move
17 forward on stable footing into the future.

18 MS. STAHL: I would like to -- flipping around my comments, I'd like
19 to add one thing to Michel's list, and that is in fact a description of how
20 and on what matters the NEJAC will be consulted and how the NEJAC
21 can ask the agency to address certain issues. I think that's a basic
22 misunderstanding that's occurred here today.

23 I don't think we want to get into what the definition is or, you know,
24 who said what to whom and what is sharing and who is in industry, or any
25 of that. I think it will drag us down instead of move us forward. But I do
26 think that we can take and learn from that and ask and answer the

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1 specific questions of on what matters will the NEJAC be consulted up
2 front in a primary fashion and how should NEJAC approach the agency
3 on matters that it wants the agency to be considering with regard to
4 environmental justice. I think those clarifications will be very useful.

5 I would also like to just comment briefly. You know, when Venice
6 raised the issue of the interim guidance, the fact is that there was
7 tremendous damage done in the state-EPA relationship on the basis of
8 the process that was used there.

9 States can basically take care of themselves. They've got their
10 political structure, they've got their strengths, they've got their individuality
11 and their autonomy. The environmental justice community does not have
12 that same strength; that's why we are here. So when that same pitting --
13 we can't afford to pit the environmental justice community against EPA
14 or the Office of Environmental Justice. We lose, the community loses.

15 And that's the true sadness, I think, that underlies much of what's
16 going on here today. We can't afford to be without the one true
17 champion that the environmental justice community has had. And that,
18 you know, I think is something that we really need to overcome.

19 MR. TURRENTINE: Tom, Don, and then -- I'm sorry, Jennifer.

20 MS. HILL-KELLY: I just want to echo some of the comments that
21 have already been made. I think they've been made very well.

22 I guess at this point, to move ahead, I mean, I'd like to really hear
23 why we cannot see the document at this point in time. I think that we've
24 had -- we've been together now for four days, there was ample
25 opportunity for us to get a look, and I'm sure there would have been the
26 commitment of people here to take the time to look at the document and

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1 kind of get ahead of this issue.

2 MR. HERMAN: I think there were two -- you know, I can think of a
3 couple of reasons. One -- I'm just repeating these. One is, you know,
4 the document isn't done. Two, the decision -- you know, at least the
5 preliminary decision was made to release it for comment at the same
6 time, you know, that everybody would get a chance to comment on it.
7 And that's why I believe it was not presented here.

8 MS. RAMOS: Mr. Chair.

9 MR. HERMAN: This is -- let me just -- this is not -- I mean, I also
10 think there are different ways of -- there are different ways of viewing, you
11 know, what the document is.

12 It's not -- this is, you know, viewed as an internal sort of roadmap for
13 what the regional people have asked for. You know, I don't have -- and
14 there wasn't an interest -- or, there isn't an interest in terms of keeping it,
15 you know, keeping it secret. I think the question is one of at the time it's
16 shared with people that it's shared, you know, with all parties.

17 I'm not sure myself -- I'm not sure myself under the FACA law, you
18 know, what can be shared with outside parties, you know, before other
19 outside parties are also consulted or having it shared with.

20 And let me just say -- and I'm looking at Michel -- you know, one of
21 the things that you said that's of concern is your perception that this
22 FACA is being treated differently than other FACAs. If that's the case,
23 that's a real concern.

24 MR. GELOBTER: I've sat on a lot of them and they are eager to get
25 us stuff long before --

26 MR. HERMAN: Well --

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1 MR. GELOBTER: And that's our legal status. That's what we're
2 supposed to help do.

3 MR. HERMAN: Well, I think that's something that we're going to
4 have to -- that I certainly would say is going to have to be examined.

5 MR. GELOBTER: This isn't the first time it's happened here and a
6 lot of people I really respect in the agency do treat us more cautiously on
7 this issue than I've seen on other FACAs. And on some of the other
8 rules that aren't directly EJ it's been like that also. And they're very
9 important things that we need to be able to --

10 MR. HERMAN: Well, I -- I mean, obviously if this FACA is going to
11 be a success, you know, and continue its good work, that's one of the
12 things that's going to have to be cleared up. You know, cleared up with
13 some specifics.

14 MS. RAMOS: Mr. Chair.

15 MS. WOOD: Steve, I too have served on a number of FACAs and
16 I don't have a copy of the Act here in front of me, but there has always
17 been a degree of more flexibility for FACA members than for the general
18 public.

19 In addition to that, one thing that certainly has come about with this
20 administration has been a much more open transparent government in
21 every respect. Representing industry we found that applies in our lives
22 too. Permits now are done much more openly. We all recognize we
23 need to have everybody at the table if we're going to move forward.

24 And increasingly in the last four to five years, when I think of every
25 program office that I've worked with, we know the agency spends a long
26 time working on documents before they start to see the light of day. But

1 from the minute the agency really started to Web a few years ago we all
2 know that you can go to any of the program offices and see a number of
3 documents that are certainly still in draft, they are there deliberately to let
4 people that are interested know about them and look at them. I cannot
5 tell you exactly when they show up there in terms of from when
6 somebody first started to do that first draft.

7 But we also know that Barry has been working on this document for
8 well over a year. He has talked to some folks about it and the fact that
9 he was developing this. And I think we all, respecting sort of the
10 guidelines, that we don't really bug somebody when they're working on
11 something in the early stages, we sat back and waited, figuring at some
12 point it was going to come forth.

13 So, to suddenly hear that this document is not done and is going to
14 be in the Federal Register by the end of the month runs contrary to my
15 perception of when I was at the agency and the many years I've spent
16 since then studying how things work.

17 We know that things go through a number of changes. We know
18 that this has been looked at by the regions and by the other program
19 offices. And usually for every other program office within the agency,
20 things start to emerge about this point. And usually it should emerge first
21 with the FACA committee.

22 So the fact that this one doesn't does put it in a special category
23 which is unlike any other document that I've ever had the experience of
24 wanting to see in my 20-some years of association either inside the
25 agency or outside the agency. So this is a unique document in many
26 respects.

1 MR. HERMAN: It's unique in the way it's being handled.

2 MS. WOOD: Yes.

3 MS. TRAVIS-MILLER: The way it's being developed.

4 MS. WOOD: The way it's being handled and developed.

5 MR. HERMAN: Yes, that's right.

6 MS. WOOD: And I don't understand, based on --

7 MR. HERMAN: What you're saying is this isn't a document that's
8 so unique that it should be handled in a unique way.

9 MS. WOOD: I have no idea of what --

10 MR. HERMAN: Right. Right. I understand.

11 MS. WOOD: I have absolutely no idea of what the content is --

12 MR. HERMAN: Right.

13 MS. WOOD: -- other than I do have one recollection. When Barry
14 actually came and talked with NAM and talked just as Ann Goode had,
15 he was making the point -- because, remember, there was some
16 confusion for a while about the difference between the Civil Rights Office
17 and Title VI and environmental justice, and he was very quick shortly
18 after he had taken over the office to say that he was developing guidance
19 that would relate to the Office of Environmental Justice.

20 I would hate to -- I mean, given the experience we all went through
21 with Title VI where people were concerned when it emerged on the street
22 and nobody had had a clue about it beforehand, I think we all went away
23 a little wiser about the importance of making sure that all the concerned
24 publics are brought in early on to start to talk about these things.

25 I do think a FACA traditionally -- in every other FACA -- is at the
26 head of that list, and actually is there for the very purpose of trying to

1 recognize perhaps some of the bombs that might be in the document and
2 find a way to reword, rewrite, and present it so that you don't initially set
3 off a firestorm, which is what happened with the Title VI document.

4 We're far better off if we can offer some friendly advice at the
5 beginning when this thing is still in rough draft and have it move forward.

6 We're all very sensitive to the fact that we have a new administration
7 coming in and I would suggest this diagnose, which none of us have
8 seen, may be a wonderful document, it may be that we would embrace
9 every word of it, but coming out in the Federal Register at the end of the
10 month is sort of a dead -- it makes it a target for a number of folks in town
11 who will instantly not read the document but decide they don't like it.

12 MR. TURRENTINE: Damon.

13 MS. RAMOS: Mr. Chair.

14 MR. TURRENTINE: Rosa, I need to get everybody involved.
15 Damon has had his card up a long time. I'll come to you.

16 MR. WHITEHEAD: Mr. Herman, I would echo some of the
17 comments that Mike made earlier. But I guess my basic comment goes
18 back just to a principle that I've been on the Council probably for four
19 years and somebody that's been much more senior than me -- you know,
20 Luke and Charles Lee -- I think this is the first conversation we have ever
21 had about the legalities of what can be released and not released and
22 what our role is. I find that disconcerting.

23 Also, we look at this particular document, which I haven't seen
24 either, but you look at it and you talk about, you know, the legalities of the
25 release of it now and prior to its publication in the Federal Register, but
26 if you look at practice in the past, that has never been an issue before

1 with this FACA, And in subcommittees dealing with the program offices
2 it hasn't been an issue that's come up.

3 If we're going to be treated like the rest of the public to, you know,
4 look back at the Federal Register, which I once again point as a very poor
5 way of communicating with the public and getting true public input -- but
6 the whole process of waiting until something is already done, this seems
7 to me as a term that I learned from Bob Knox, you know, the decision
8 has already been made, you know what the decision is, and then we
9 defend it.

10 Public process as Rosa -- you know, we have a public process, or
11 public input committee and has formulated a good bit of guidance to the
12 agency prior to, you know, having something formally in the Federal
13 Register or knowing what policy is or whatever this argument is currently
14 that we're discussing, indicates, you know, from the beginning that you
15 deal with that.

16 So, while, you know, I understand what you're saying regarding a
17 document that is going to be released at the end of the month, I find it,
18 you know, hard to believe that knowing the chain of command that goes
19 on at EPA that it's nowhere near close to being done, I think we need to
20 look at it just the broader issue -- where have we come from? If you just
21 look at this Council and the prior Councils beforehand, just look at the
22 history of it, this issue has never come up before in the long history of
23 NEJAC, you know, far beyond my tenure here.

24 I find it utterly unbelievable that we're sitting here arguing over the
25 legalities of getting a document which hasn't been released to the
26 Federal Register to an advisory committee, a FACA, which by definition

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1 is advisory.

2 I mean, it would be like saying to the Science Advisory Board we're
3 not going to let you look at this until we publish it; then you can give us
4 comments as to whether it's not, you know, scientifically plausible.

5 I find it utterly --

6 MR. HERMAN: Let me just comment on that. I say this -- I don't
7 want it to be taken wrong. As an advisory committee -- and this I think
8 goes to the comment that somebody made earlier about having -- maybe
9 Michel, that there's going to have to be some meetings in terms of how
10 things are functioning with regard to several issues.

11 The role of the advisory committee is to give advice on things that
12 the agency asks advice for. That's basically I think what the FACA says
13 --

14 PARTICIPANT: We can't hear you.

15 MR. HERMAN: Oh, I'm sorry. The role of the advisory committee
16 is to give advice on issues or on matters that the agency asks advice on.
17 Now, the agency doesn't seek advice from you, you know, at their peril
18 in certain instances.

19 MS. TRAVIS-MILLER: (Inaudible.)

20 MR. HERMAN: What do you mean?

21 MS. TRAVIS-MILLER: (Inaudible.)

22 MR. HERMAN: No, no. I understand. All I'm saying is that the
23 agency has the option of choosing to ask you for your advice or not
24 choosing to ask you for your advice on various issues or whatever.
25 Sometimes that judgment is not a good judgment -- you know, it turns out
26 not to be a good judgment. And as Pat said, it often can be very

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1 beneficial to seek advice and it can work.

2 All I'm saying is that, you know, it's not as a matter of course that
3 things are -- that a particular FACA is asked for its advice.

4 MR. TURRENTINE: Mr. Herman --

5 MS. RAMOS: I really would like to say something.

6 MR. HERMAN: Well, let me just -- let me just finish.

7 MR. TURRENTINE: Yes.

8 MR. HERMAN: So I think that part of what -- I mean, part of what
9 you're saying or part of what I'm hearing is this one -- this is a very
10 important -- or you think it's a very important document about which you
11 would, one, like to give advice and you would think we'd want your
12 advice. And, second, it falls into a category of -- you know, a broader
13 category of matters about which there has been some lapse in
14 communication or understanding between the FACA and the Office of
15 Environmental Justice.

16 MR. WHITEHEAD: Just to follow-up on the point, Mr. Herman. One
17 is that even if you don't seek our advice, we've given you advice on other
18 matters and we sought it out. But secondly is -- and following that point
19 is that a document dealing with environmental justice, even if you don't
20 consult with us, when it's released it's going to be assumed that we had
21 some type of look at just by logical implications that if you release a
22 document on environmental justice and you have a FACA that you've
23 spent this amount of money on, that you would have run it by them, let
24 them know, or something like that.

25 That's just common sense. And my mother says I don't have it, but
26 for some reason I think that's going to happen.

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1 And the other broader point is that, like I said, that may be the
2 agency's position with regard to the full Council, but just in the
3 subcommittee and the work that goes on there, and dealing with the
4 different varying levels of different -- you know, I'm on the Air and Water
5 and -- I just can't imagine Rob Brenner coming up to me saying, well,
6 after it comes out in the Federal Register then, at that point, we'll get your
7 advice on it, you know -- you and the rest of the public.

8 I just -- to me that's -- for the last four years -- I mean, I'm just
9 confounded. I mean, I'm leaving but that's never happened before. And
10 look at, you know, members out in the audience who've been with this
11 Council with much more experience than I have, I could imagine
12 someone telling that to my friend down in New Mexico Richard Moore --
13 I would like to see the beating he would give that person.

14 (Laughter.)

15 MR. WHITEHEAD: I would find it utterly unbelievable that someone
16 would say that to Richard Moore, that, you know, after it comes out in the
17 Federal Register you can have a look at it then.

18 That's all my comments and, you know, thank you and I wish you
19 luck. I'm sitting here dumbfounded, I really am.

20 MS. SHEPARD: We're going to take the next four comments on
21 this and then we're going to go back to Michel to summarize the next
22 steps on this particular issue. Don.

23 MS. RAMOS: Excuse me. I have been waiting for too long to have
24 a chance to talk.

25 MS. SHEPARD: (Inaudible) everybody in the conversation.

26 MS. RAMOS: But I haven't talked in this round.

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1 MS. SHEPARD: Rosa, you've had a little chance. We're going to
2 get to you.

3 MS. RAMOS: Okay.

4 MS. SHEPARD: Don has had his card up and then Rose.

5 MR. ARAGON: Okay, thank you.

6 You know, I believe the issue that we're talking about here is the
7 person that we're working with should have better communications with
8 us. And as you said, the document isn't done. Well, if that's the case,
9 then this is an excellent time for the NEJAC to have their input into
10 getting, you know, what their thoughts are.

11 (Applause.)

12 MR. ARAGON: And then you can bring the document back and
13 have it gone through the committee here, because what I see here is the
14 EPA -- and I've commended the EPA on how they've worked with Native
15 Americans in developing an Indian policy and have had a real good
16 commitment to the Tribes and have worked with them. But the way the
17 EPA is acting on this situation is you're treating us like the BIA treats the
18 Tribes.

19 You know, you develop a policy for us to live with. Essentially that's
20 the way the government has always treated the Tribes, and I think that
21 we, as an advisory board here, if you don't want our advice, then tell us,
22 you know.

23 I know that all of us have other jobs to do and it's extremely pressing
24 to come back and spend an entire week back here working on something
25 that we really believe in, and I really believed in the NEJAC and I still do,
26 because I think that it is an avenue for the community to come forth give

1 testimony to a group and that that testimony would be eventually given
2 to the Administrator so that things can change in the environmental
3 world.

4 But without the input into an environmental justice guidance kind of
5 document, then, you know, you've taken away what the NEJAC stands
6 for. And if we are only here to do some window dressing, then, you
7 know, I think you need another group because I don't believe that these
8 people that are sitting herewhom I have the greatest respect for because
9 I think that they're all dedicated people and they're dedicated to the
10 cause of doing environmental justice work -- and I really feel that the EPA
11 should give the amount of respect that we give to each other at this table
12 so that things can go forth instead of going backwards.

13 You know, there was one other comment that I wanted to make
14 here. The Chairman said he apologized. I don't think the Chairman has
15 to apologize for anything. I think he's done an excellent job.

16 Thank you.

17 (Applause.)

18 MS. SHEPARD: Alberto and then Rose.

19 MR. SALDAMANDO: I appreciate this. I know the time is short, but
20 it seems to me that we are really in a fix when we retreat into legalisms
21 and legalities.

22 The fact is, if you look at the Charter, if you look at our founding
23 documents, it doesn't say that we are supposed to provide you advice
24 only on the matters on which you seek advice. It says that we're
25 supposed to provide you independent advice.

26 I don't see anything in those documents -- and I'm looking at them

1 right now -- that says that you are allowed only to give us the issues on
2 which you want advice and on the issues that you do not want advice on,
3 we're not supposed to offer advice.

4 (Applause.)

5 MR. SALDAMANDO: I think it's a bad situation when we have to
6 argue legalisms. I think lawyers are a waste of time.

7 But it seems to me that if you're going to retreat into that posture, it
8 really becomes a matter of experts and general counsel.

9 I'm here in a role to offer and provide independent advice on matters
10 of environmental justice to you, whether you like it or not.

11 MS. SHEPARD: Rose.

12 MS. AUGUSTINE: You know, I just can't believe that after seven
13 years you still don't get it. You have no idea what environmental justice
14 is all about.

15 First, I'm wondering, I have a lot of questions here, and you know,
16 I echo what has been said already. But, you know, we've lost -- I see that
17 we have lost -- I've watched, I've observed, as everybody else has --
18 we've lost the NEJAC to the EPA. We no longer have control of the
19 agenda. Even the chairmanship, you know, is taken over.

20 How the people have to participate, that they have to come in with
21 written documents before they speak -- that's not what we asked for.
22 That places a very heavy burden on communities. We want to get away
23 from that.

24 You have your reporters here that are supposed to be taking down
25 everything that people say. So why place a burden on the community
26 where they have to come in with their written testimony?

1 When the NEJAC first started I didn't attend because I live on the
2 other side of the world in Arizona, but I understand that people would
3 stand in line for hours -- they came from so many places at an expense
4 to them, an expense that communities still cannot afford, and they still
5 come at a very high sacrifice. But people would stand out the door in line
6 waiting and the NEJAC listened to their testimony until 1:00 or 2:00 at
7 night.

8 And now we only have a couple of people trickling in, a couple of
9 communities trickling in. What has happened?

10 What happened to the community tours that this committee has
11 been conducting on the first day, which is on a Monday? That's why I
12 came. I thought we were going to have a tour. Instead we have a dog
13 and pony show for four hours, when it should have been dedicated to the
14 community.

15 I want to hear from communities. I don't want to hear about the
16 agency and patting everybody on the back.

17 And let me tell you, the people that work in the agencies, the DFOs,
18 do a great job because I've seen them, I mean working late hours to help
19 us put papers together, to put these documents together. And they really
20 have, you know, an interest because a lot of them come from
21 communities like ours.

22 But what is happening to this NEJAC? I was ready to walk out. I
23 really was. But then I start looking at what has happened and I'm looking
24 at the bigger picture and I'm wondering is this isn't all a plan of the
25 agency with the administration going out and the new one coming in to
26 dissolve this NEJAC, to dissolve this forum for the communities, to

1 render us helpless.

2 You just don't get environmental justice, do you, after all these
3 years? What does it mean to you?

4 MS. SHEPARD: I'm going to go to Rosa and Janna and then we're
5 going to move to a different issue. Rosa.

6 MS. RAMOS: Mr. Herman, at first I thought this was one man's
7 mistake, you know, and it was a big disappointment for me because I
8 know Bill (sic) is the man who got this NEJAC better oriented, more
9 targeted. And this is the man who gave more space for interagency
10 collaboration. So it was a big disappointment for me to see that he has
11 produced all by himself what he thinks should be the guidance for
12 environmental justice.

13 But now you're telling us that the agency doesn't want to know from
14 us, the communities, what environmental justice really is. And, you
15 know, this is something I don't understand coming from you.

16 I understand that right now you're going through -- all of you -- are
17 going through a very difficult moment. I understand that there's many
18 things happening and it's a difficult time. I understand that. But I want
19 you to not -- I want to ask you not to throw away the most precious gift
20 this administration has given us, which is real, early, meaningful
21 participation into the decisionmaking process.

22 As I understand, NEJAC is not an outsider to the agency. We are
23 part of the agency. We are supposed to work with you shoulder-to-
24 shoulder in analyzing and giving our perspective to these rulings and
25 guidances. And that's what you have introduced for the first time.

26 I ask you, I beg you, to organize a work group right away including

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1 us to review this guidance. We will not go to the media to tell everybody
2 what's happening inside because we have never done that. We respect
3 your means and ways, you know. We understand we are part of the
4 agency. But you represent an administration that right now is telling the
5 world that the government should not act as a monarchy or an oligarchy,
6 that we are a democracy. How in the world are you going to exclude the
7 community viewpoint in developing this type of guidance on
8 environmental justice, the most crucial issue for communities?

9 So once more, I respectfully request from you to order the creation
10 of a work group immediately.

11 MS. SHEPARD: Janna.

12 MS. WALKER: I just wanted to pick up on what Alberto said. Really
13 there is nothing in that Charter and Bylaws that requires that NEJAC be
14 asked by EPA to give its advice.

15 Quite frankly, it just doesn't make sense that that is the way it would
16 work. I mean, if this is the case, I'm not sure why an International
17 Subcommittee was created because, quite frankly, since I have been on
18 NEJAC nobody seems to be beating the subcommittee door down from
19 EPA asking for advice on the many issues and environmental problems
20 that exist out there in Indian Country. Yet the subcommittee has worked
21 to independently generate and bring forth advice and recommendations
22 to EPA.

23 Also, with respect to what Rose said, we sit through many hours of
24 these public hearings and from those we have to be able to use what we
25 learn at those hearings to make advice to EPA. That's really our only
26 tool. If we don't have that tool, then I think it should be representatives

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1 from EPA that sit at these tables during those hearings.

2 MS. SHEPARD: Michel.

3 MR. TURRENTINE: Wait.

4 MS. SHEPARD: Okay.

5 MR. GELOBTER: You want me just to reiterate the proposals I
6 made in my statement just briefly? I mean, I think if you can't give us the
7 guidance today, set a date soon to get it to us. I mean, like a week, a
8 few days, whatever, in getting the guidance to this committee for its
9 review.

10 Frankly, I think it should include some version of the options that
11 have been in discussion. Maybe not a unitary voice, but hearing what
12 some of the programs have had to say as well in some form that
13 represents the guidance -- not a summary, but the real deal.

14 And I think you should talk to OGC. I think there's no question that
15 that can be done on an as-willing basis on your part, that you are under
16 no obligation except for the politics of getting the thing passed to share
17 it with industry or anyone else. They're represented here. You can come
18 to the FACA first; you can come to the FACA in the middle; whatever. I
19 think you need to set a date by which you're going to come to the FACA
20 and it should be a date that's soon, hopefully still in your tenure, Steve,
21 because you're a person we think, you know, who is open in that way --
22 well, that I think is.

23 Second of all, I think that we do need clearly to revisit the rules by
24 which this entity governs itself, and I would suggest, as Rosa Hilda did,
25 that we form a work group immediately just to try to refresh and hammer
26 that out, with either Charles representing the agency or yourself

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1 representing the agency, clearly getting some decent legal opinion to
2 cover it, and let's come up with a guidance -- I'd also respectfully submit
3 that members of that work group include -- that members of that work
4 group include people, even some whose terms are expiring, some of the
5 elders who have a longer experience with governance, like Tom
6 Goldtooth or Luke Cole or others, at least for the purposes of nailing
7 down a principled way of doing business into the future that is less
8 ambiguous and more clear so that we can feel like, you know, we're
9 being heard and that there's a process around that.

10 Those are two things I would strongly, strongly suggest.

11 MS. SHEPARD: I would like to move this. So, Luke and Tom, is it
12 on this specifically? Okay, Tom.

13 MR. TURRENTINE: Peggy, before you go on --

14 MR. MITCHELL: I'd just like to simply say that it's been over an
15 hour that we've talked about this guidance and the policy, things that are
16 in the manual, and I'd just like to see if we could just cut to the chase and
17 see exactly, Steve, since you only have 30 days left to not leave us as a
18 laying duck in the middle of a transition period with this next
19 administration that would gladly love to see this group walk out of the
20 door because this is the only vehicle that communities have.

21 I am a community representative and for the first time when I came
22 into the NEJAC if it was not for the NEJAC being the only vehicle that
23 was there for communities, and I can see why, Rosa, that you don't have
24 the communities in line knocking down the door if you have nothing but
25 industry people that you're coming into to report to. I mean, you're
26 running from industry coming in here for help, and you're talking to the

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1 industry. So I mean, why would you waste the time coming in?

2 And I'd just like to see if we could just move to hear what you could
3 possibly do to help us save this important process that we have of the
4 NEJAC to move because these Bylaws of looking at what I've seen in the
5 past of when Arthur Ray and some of the others were on, excuse the
6 French, some of the ass kickers that were here, it's watered down to the
7 point that I think that we really just need to go down the list and see what
8 you can do to correct this within this 30 days.

9 MR. GOLDTOOTH: Peggy.

10 MS. SHEPARD: Tom

11 MR. GOLDTOOTH: It is related to this.

12 MS. SHEPARD: Okay. All right.

13 MR. GOLDTOOTH: I made a couple of comments this morning and
14 I was just kind of sitting here listening. I would like to echo what was said
15 here as far as the recommendation from Michel and -- you know, I'd like
16 to feel -- since this is my last meeting, I'd like to feel that there's some
17 resolution to this or at least there's a plan to where I can go home and
18 feel good about the process, that there's going to be a process that's
19 going to respect the principles of environmental justice.

20 I have to go back and also inform my constituency, as director of an
21 indigenous environmental network. We've had a lot of those people from
22 the communities that we work with, we are a grassroots communities, we
23 work with Tribes, and those people have come here throughout the years
24 to offer testimony.

25 I don't need to say that I believe that a lot of the leadership from the
26 EJ movement that have sat here on the Executive Committee over the

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1 years, as well as those in subcommittee -- you know, we've given a lot,
2 that's true; but also I believe that also we've given the benefit of the doubt
3 very often to the Office of Environmental Justice, to yourself, and we've
4 compromised. We've compromised on different bits and pieces along
5 the way. And I don't need to list those times. We have compromised.

6 I feel that if we don't nip this right now, that it is going to affect the
7 effectiveness of this whole agency. We're at a very critical point right
8 now with the new administration. We know that. The grassroots
9 community out there, the impacted communities, the Tribes, they're
10 aware of this also and they're looking at all of us here and how we handle
11 this.

12 What I'm concerned about is on this process and how we're going
13 to seek resolution to this. I'd like to be involved with this. I think there
14 was a good recommendation from Michel; those people that are leaving
15 this Executive Committee should be available for us -- for Luke and
16 others on this -- to be part of that process. That would assure me at least
17 that whatever we come up with, that it's going to be something that's
18 going to be workable and it's going to be respectful to those new folks
19 coming on.

20 We have new people coming on and this needs to be clarified and
21 rectified now. Thanks.

22 MS. SHEPARD: Steve.

23 MR. HERMAN: Haywood was sharing with me one idea.

24 I think Michel's suggestion is a constructive one, and Haywood I
25 think has an idea for it.

26 With regard to releasing the guidance, what I will say is that, you

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1 know, I've heard what everybody has said and I take it seriously and I'll
2 take it back and I want to talk with my staff and others about it. But I
3 certainly take your -- what I take is very heartfelt statements -- seriously
4 and, you know, intend to get back to you very quickly.

5 With regard to a couple of the things that Rose said, which I listened
6 very closely to, we have here right now what I see as -- you know, there
7 are two things going on. One is the dispute over this document, over this
8 guide. And that in some ways is a subcategory of some other issues that
9 you're raising with regard to the functioning of the FACA and the
10 interaction with the Office of Environmental Justice.

11 Those are issues that I have no doubt that, you know, if the people
12 around this table get together with the people in the Office of
13 Environmental Justice and my office, that it can be resolved satisfactorily
14 basically because I think there are shared values and there is a shared
15 mission.

16 What I don't want to happen is that those differences be so
17 overstated as to blur or obliterate the fact that this FACA has, and I trust
18 will continue to have, impact.

19 Secondly, that communities have more access, regular access, to
20 EPA -- not through the FACA, but direct access -- than ever before. That
21 that access has changed the way EPA thinks on various policies. I've
22 witnessed it myself and I think a lot of you have at various meetings.
23 That the prior practice or the prior understanding of who the usual
24 suspects are, or who the usual people were that EPA consulted on
25 various policies, proposals -- whether it be brownfields or voluntary
26 Superfund programs or trading programs, or whatever else -- has

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1 changed profoundly during the past seven and a half or eight years.

2 I think that's very important to keep in mind as we work through the
3 specific -- you know, the specific issues that you've raised -- and I think
4 that they're legitimate issues to raise that we have to deal with that you've
5 raised here this week.

6 MS. SHEPARD: Thank you, Steve. We'll go to Luke.

7 MR. COLE: Thank you, Steve. I appreciate your being here.

8 I think that the way the agency has treated the NEJAC on the
9 guidance is a symptom of a deeper problem, and I want to point out a
10 couple of other symptoms that I see and that have been identified by my
11 subcommittee and by members of the NEJAC and that Michel's
12 suggestion of getting together to talk about governance might help
13 address.

14 If the symptom is the guidance where we are the National
15 Environmental Justice Advisory Council and it's the Environmental
16 Justice Office developing the Environmental Justice Guidance and
17 they're choosing not to involve us in it, that's a symptom of, you know, a
18 kind of autocratic leadership or desire not to hear from your own advisors.

19 Another symptom that I've seen was the decision by the Office of
20 Environmental Justice to take out of the hands of NEJAC the choice of
21 location of the NEJAC meetings. It used to be that the Protocol
22 Committee would get together and decide, for whatever particular reason
23 -- we were trying to illustrate some environmental justice issue or some
24 environmental justice success, or we were trying to have regional
25 diversity, or things like that -- we used to choose and make commitments

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1 to different regions.

2 We made a commitment to Region 2 to have a NEJAC meeting
3 there. We made a commitment to Chattanooga to have a NEJAC
4 meeting there.

5 That function has been removed from the NEJAC. That's no longer
6 a decision that's made by the NEJAC. That's a decision that is made by
7 one person, the Director of the Office of Environmental Justice, over the
8 objection, the strenuous objection, of the NEJAC. That's another
9 symptom.

10 Setting the agenda for the meeting and deciding who will be able to
11 speak and who will not be able to speak at the meetings. That used to
12 be a function of the Protocol Committee and the Planning Committee for
13 the different NEJAC meetings. We would get together, we would decide
14 who we wanted and then we would invite those people.

15 Well, for this most recent meeting we wanted to invite a particular
16 person who we actually had speak before the Enforcement
17 Subcommittee yesterday, and we were told on no uncertain terms that
18 that person could not be invited by the Director --

19 PARTICIPANT: (Inaudible.)

20 MR. COLE: We were told that Steve Herman and Sylvia Lowrance
21 would not allow Deohn Ferris to address the NEJAC. That was what we
22 were told in a Protocol Committee conference call.

23 So it was on your authority that she was barred from addressing the
24 full NEJAC.

25 And then, when there were people placed on the agenda who we
26 strenuously objected to, we were told that we had no power not to listen

1 to those people.

2 The choice had been made that we were going to listen to people
3 that we chose not to and we were not going to listen to people that we
4 chose to.

5 Now, that's a fairly fundamental aspect of decisionmaking, setting
6 your agenda. And if you want us to hear from who you choose and not
7 hear from who we choose, then I think we're going to be unable to give
8 you the type of policy analyses that you want.

9 The third thing. Membership on the NEJAC and on the
10 subcommittees. I'll speak from the experience of the Enforcement
11 Subcommittee. We got together and we looked at a number of
12 candidates and we sent a slate of five candidates up. We didn't have the
13 expectation that all of our candidates would be chosen, but we had the
14 expectation that some of them, maybe even one of them, might be
15 chosen.

16 Instead, the entire slate was rejected and six other people were
17 appointed, none of whom we knew were even in the application process.

18 One of the things that disturbed me about that was not just the
19 process, but the product. The Enforcement Subcommittee will lose a
20 communities group representative, a non-governmental representative,
21 and an academic representative, and -- I'm trying to remember -- one
22 other representative -- a state and local representative.

23 Those people are being replaced largely by industry representatives.
24 We will now have three industry representatives on the Enforcement
25 Subcommittee, one community group representative, and zero non-
26 governmental organization representative.

1 Now, every single federal advisory committee, except for this one,
2 is dominated by industry. Every single one. I've been to them and I
3 know. It's 70 industry people and three enviros.

4 This was supposed to be the communities groups and the non-
5 governmental organizations voice. In the Enforcement Subcommittee --
6 and I don't know if this holds true for other subcommittees; I'll let other
7 subcommittee chairs speak to this -- in the Enforcement Subcommittee
8 somehow under this regime in the Office of Environmental Justice we
9 have three times as many industry people as we do communities people
10 on the subcommittee, and we don't have any non-governmental
11 organization representation.

12 This is despite a strong effort on the part of our subcommittee to try
13 to have people representing other sectors on it, who were rejected by the
14 Office of Environmental Justice.

15 Now, all of these are just symptoms. They're symptoms of an
16 unaccountable governance process.

17 I don't want to get into what happened around the subcommittee
18 chairmanship of our subcommittee because that's some agency laundry
19 that I don't want to wash in public. But I will say that the process that the
20 NEJAC set up to ensure continuity, to ensure that the subcommittee
21 could have some institutional memory and could have somebody who
22 had the experience on the subcommittee to hit the ground running as the
23 chair, was totally subverted, and somebody who is not even on the
24 NEJAC was contacted, unbeknownst to the committee members, and
25 invited to become the chair of the committee when my understanding
26 was that the NEJAC is usually the ones who elect the committee chairs,

1 and our subcommittee had elected a member of that subcommittee to be
2 the chair.

3 So, all of these are symptoms of a larger problem that I think you've
4 got to address, because otherwise these problems are going to keep
5 popping up again and again.

6 I'm not sure how you address it, but I think you have to step in and
7 if you don't listen to us, you can listen to your agency staff. I mean, these
8 same symptoms are played out in other ways with the regional
9 environmental justice coordinators, they're played out in other ways with
10 the headquarters staff, they're played out in -- there are other symptoms
11 out there of this problem that you need to address.

12 I'll let you identify what the problem is, but I'm describing the
13 symptoms and I'm hoping that you will take us seriously.

14 This was characterized in the press earlier as kind of this Luke and
15 Barry dispute here, and I hope that when you hear from every single
16 member of this Council that you'll realize that that is not what this is. This
17 is a deep structural problem at the EPA that you need to address.

18 Thank you.

19 MS. SHEPARD: Are there others who have comments? Rose?

20 MS. AUGUSTINE: I want to echo what Luke just said. We had a
21 person that was appointed to our subcommittee who was an attorney
22 who represented a company -- and he worked against the community in
23 a Superfund site. He never attended the meetings, he never attended
24 the phone calls. Dr. Payton, would you like to add to that? What was
25 said to you when you told him about --

26 MS. PAYTON: I believe there were several incidents that you were

1 referring to. Just in conversation and subcommittee business, I'll call it,
2 the person, not calling any names, who, as she said, did represent
3 industry, thought that -- well, I can't exactly say that I can express his
4 feelings, but I can speak factually and state that he did say that -- I'm just
5 getting to the point I believe you're talking about, Rose -- that the burden
6 of proof should be on the community -- is that that incident? Okay.
7 When as a representative of this environmental justice advisory counsel
8 feel that communities are heavily burdened and should have some
9 assistance, some help, and not -- in particular those communities who
10 are heavily inundated by polluting facilities should not have to suffer the
11 burden of proof.

12 He was not one who was willing I think to work in those regards. I,
13 however, felt that regardless of his own strong personal issues, that what
14 he should consider and put forth is the efforts that were being made by
15 the advisory counsel and to put the communities first, as we all should
16 do.

17 MS. AUGUSTINE: I think that Dr. Payton left something out. He
18 told her that her comments -- to make a comment like that --

19 MS. PAYTON: Oh.

20 MS. AUGUSTINE: Okay, would you please. I know you don't want
21 to say it, but it needs to be said.

22 MS. PAYTON: I'm trying to think exactly what you're talking about.
23 He said so many things --

24 MS. AUGUSTINE: For someone who worked in Harvard --

25 MS. PAYTON: Oh, yes, right.

26 MR. TURRENTINE: Rose, why don't you say it?

1 MS. AUGUSTINE: Well, I would rather that she said it because --

2 MS. PAYTON: Okay, since she started I know what she's talking
3 about. There were numerous conversations of this sort, but in one in
4 particular he just stated that for someone who was from Harvard and had
5 training there and at Boston University, that was a heavy statement.

6 MR. TURRENTINE: I'm totally lost.

7 MS. PAYTON: And I think it would be --

8 MS. AUGUSTINE: To me it was like a threat. Okay? The way it
9 was said was a threat because of how she brought this out. But then this
10 person never attended the meetings, never attended conference calls,
11 and he's no longer on our committee. But, yet, I took it as a threat what
12 was said to her because of her position.

13 MS. PAYTON: Well, actually, he resigned, I understand. Just so
14 you won't think that we actually asked for his termination.

15 But while I have the microphone, let me just say that in concurrence
16 with what has been said here I see it as a disease spreading, actually.
17 You know, one of the things we can do is to prevent the problem from
18 occurring instead of trying to treat the disease by putting band aids on it.

19 So one of the things I'd like to recommend is that issues like these
20 be dissolved early on, booked at. I use the word "prevention," to try to
21 prevent such occurrences.

22 MS. SHEPARD: Annabelle.

23 MS. JARAMILLO: Much of what I would say has already been said
24 here so I'm not going over them.

25 Having been involved with the public now on a personal level over
26 the last few months, it's become very clear to me that -- and in my job for

1 the last five years -- it gets very clear to me that the best customer
2 service that any entity can do is that communication with its constituents.
3 I don't think the government is any different than industry or anything else
4 in that matter. If you don't provide that good customer service, it's going
5 to come back and bite you in the behind. And I think that's what's
6 happened here.

7 I think Luke stated it very well. Much of this is very symptomatic of
8 a process that has gone bad. And I think Marinelle said it well as well.
9 You know, it's kind of like a slow cancer that's very rapidly growing. And
10 if it isn't dealt with, it's not going to get well.

11 Having said that, I really would like to move forward and get really
12 clearly what is going to happen to fix this now. I don't think we can wait
13 until the next NEJAC meeting to get any resolution to this matter. We've
14 got to deal with it now, what's going to happen, what's going to happen
15 in the next week, what's going to happen in the next two weeks, so that
16 we can move on and ensure that we have, if we're going to have a health
17 advisory committee to move into the next administration because, quite
18 frankly, it's got to be institutionalized and move on as a healthy entity
19 because I personally have -- and this is in my opinion -- no faith that we
20 would get such direction from the incoming administration.

21 If we can institutionalize it and move on with a healthy process, then
22 I think we have a chance. So if we could get clarity on what's going to
23 happen over the next couple of weeks, I really would appreciate that.

24 MR. HERMAN: Well, let me say this. I agree with you completely
25 that we should start moving on this, you know, quickly. It shouldn't wait
26 until the next NEJAC. You know, it should be done within the next week

1 to ten days, two weeks at the outset.

2 I say that because I have, and the Administrator has, a very strong
3 interest in making sure that the NEJAC that's left when we leave is a
4 strong, viable, working organization. I've said this before and I'll just say
5 it once more: I think it's done good work and I certainly and the
6 Administrator wants it to continue to do good work, and I think it can do
7 good work regardless of what administration comes in. I think the
8 NEJAC can serve to education a new administration and can assist a
9 new administration.

10 What I would like to do is take up Michel's suggestion and a couple
11 of others and say that within -- and this I say is the outside -- within two
12 weeks -- and over the next few days I certainly will confer with the people
13 on my staff. I think that's something that I feel -- one, I want to do and I
14 would feel comfortable doing, and I don't want to make any decisions on
15 the spur of the moment.

16 I will take up two issues. One is the guidance. And the other is
17 some of the issues that have been raised which I think you're
18 characterizing as a deeper problem that's affected various workings of
19 the committee and the subcommittees and either working through -- and
20 some of the other questions -- and working either through the Protocol
21 Committee, which Haywood is suggesting, or whatever, we'll get back in
22 a conference call and address both of those issues.

23 I take what you said this afternoon to heart. I want to get them -- to
24 the extent we can resolve some of them before -- you know, they should
25 be resolved -- whether there was going to be a change in administration
26 or not, they're the kinds of things that shouldn't fester. There are too

1 many good people involved both at EPA and on this committee and I
2 would like to see either them get resolved or have a process in place so
3 that they are resolved in the normal course of business, you know, over
4 a relatively short period of time.

5 MS. SHEPARD: Thank you, Steve. I see three commenters.
6 Rosa, Vernice, and Michel.

7 MS. RAMOS: When I learned that Bush won the elections
8 immediately created some expectations about the future of EPA.
9 thought, well, NEJAC is just going to disappear under the Bush
10 Administration.

11 But then I received some, you know, comments from Republicans
12 that they are telling me that Republicans are not interested in having
13 struggles in the streets, fights in the streets again with the communities
14 and certainly there is a good probability for NEJAC to prevail. That was
15 unexpected for me.

16 But now I see that it's this administration who is moving NEJAC to
17 disappear because by not including the community members now in the
18 NEJAC certainly is to advocate the NEJAC to disappear as a group that
19 seeks environmental justice.

20 I think it's an advancement that you have granted -- have allocated
21 some time to discuss with your staff this issue, but you're going to get
22 back to us within two weeks? So, how much time will we have to discuss
23 this document before January the 1st? You know, we will have less --

24 (Statement lost due to AV system problem.)

25 MR. HERMAN: Let me just say this, Rosa. The intention is not to
26 squeeze things at the end, that there will be -- you know, that we will try

1 and get things resolved and by that I mean back to you as quickly as
2 possible. It doesn't have to take two weeks. And that whatever time
3 there is, the purpose is not to, you know, leave no time for discussion.

4 MS. RAMOS: Okay, good.

5 MR. TURRENTINE: I just want to weigh in on one issue that I think
6 underscores the urgency of getting this done. And, Charles, I want you
7 to let him listen to what I'm saying.

8 (Laughter.)

9 MR. LEE: Yes, sir.

10 MR. TURRENTINE: One of the things, Steve, that hasn't come out
11 in this conversation, and I don't know that it has to go that far, but if there
12 is any significant delay in getting this recommendation that Michel has
13 made, I can tell you that there is a move afoot to get rid of Barry Hill.

14 (Applause.)

15 MR. TURRENTINE: And it's not coming from the Council, but there
16 is a move afoot to get rid of Barry Hill. So, if we don't want to have to
17 address that issue down the road, then we need to address these issues
18 that are on the table right now as soon as we possibly can because the
19 confidence level, and that type of thing, is leaning community groups and
20 others to say things that we don't necessarily have to go -- but I think we
21 need to -- you need to have your conversation with your staff in a very
22 candid way quickly and get back to us so that we can resolve many and
23 all of these issues before it gets into a broader arena of dissent.

24 I don't know how much clearer I can say it than that.

25 MR. HERMAN: Well, I'll just -- with regard to that I think what we
26 should do is stick to the issues, as Peggy laid them out earlier, and as

1 Michel has laid them out. I don't think it serves any of us well to -- you
2 know, one, to personalize the issues, and secondly, I would just reiterate
3 my own one hundred percent confidence in both Barry and Charles and
4 Bob and the other people in the Office of Environmental Justice and that
5 while everybody has their -- I think we all have our strengths and
6 weaknesses, I think that EPA is extraordinarily lucky and fortunate to
7 have the leadership in that office that it now has.

8 I would just ask all of you to consider that. I mean, I certainly feel
9 that way very, very strongly.

10 MR. TURRENTINE: Steve, I'm not suggesting that that's something
11 I'm advocating; I'm telling you what's happening. And that's why it's so
12 important that we address the issues that Peggy laid out, the proposals
13 that Michel proposed, so that we don't have to go down that road. That's
14 all I'm suggesting.

15 MR. HERMAN: And all I'm saying is I think it would be very
16 misguided to turn the issues that have been raised here into a personnel
17 issue.

18 MS. SHEPARD: Vernice and Michel.

19 MS. TRAVIS-MILLER: Well, I'd like to suggest that we try to move
20 to some closure in this conversation because I think we've beat this
21 horse, but we've beat it bloody and for a good reason.

22 I also want to say that when I went to bed last night I was of a
23 different mind. We had had some discussion about sort of how strongly
24 we felt about these issues, Steve, and this is sort of where I started the
25 conversation, and what we were prepared to recommend to the agency
26 today about the future of the NEJAC.

1 When I woke up this morning and I watched the Vice President give
2 his concession speech -- well, that's probably not the right word because
3 he really didn't concede -- I felt differently. And I felt differently because
4 I think a part of the legacy of Al Gore and Bill Clinton has been the
5 advancement of environmental justice issues through the Environmental
6 Protection Agency and the Federal Government, and I think that needs
7 to be affirmed.

8 However strongly we feel about the process issues, we are not
9 really here to represent our interests, we're here to represent the interests
10 of those who don't have a voice and who have not been able to be heard
11 and to be affirmed.

12 And so the future of the NEJAC and the strength of the NEJAC and
13 the source of its strength is a really critically important issue not just to
14 those of us who are lucky enough to come here and sit in these meetings
15 for four days, but for the hundreds of thousands of people who are not
16 able to be here and whose issues have not been addressed, and that's
17 why the NEJAC needs to continue.

18 So I think, Steve, however, that while I understand that you would
19 say that it is not good to personalize this, and I would agree with you,
20 however, the source of the problem is an individual. So you have some
21 responsibility to dialogue with that individual, to share these issues, and
22 to make some joint recommendations about how we go forward.

23 And we have to go forward as a united front. A house divided will
24 fall. We have to be a united house to withstand that which is coming. I
25 don't think anybody in this room thinks that there are going to be open
26 arms and a love fest for the transition that's about to transpire for the

1 work of the National Environmental Justice Advisory Council and the
2 constituencies for which we represent who voted overwhelmingly for the
3 other person.

4 So I think we need to gird our loins, as it were, to get ready for the
5 throw-down. And if we need a strong environmental justice framework
6 in which to do that, then we've got to get on with the business of getting
7 that done in a consultative process, bring this to closure, and move
8 forward and get ready for the next steps.

9 You know, I said on Monday that I wasn't willing to concede. And
10 I feel like Al Gore, I'm still not giving up, and I'm not going to give up on
11 the NEJAC. But the NEJAC has got to be a strong and affirmed
12 institution, and a FACA process within the EPA that has the full respect
13 of the Clinton/Gore Administration so that we can forward with the next
14 administration in that same fervor.

15 And so I think we need to bring this conversation to closure. I think
16 we need to move on with Michel's recommendations, Peggy's
17 recommendations and the other recommendations that have been made.
18 I think we need to put some finality to this discussion about how we're
19 going to go forward and move on with the business of the NEJAC. That's
20 my recommendation.

21 MR. GELOBTER: Steve, I'm not Richard Moore, or Ben Chavez,
22 you know, but I think the question might have been asked when does that
23 plan from Ireland get back, and other times. We do need, I think -- I
24 need a better commitment than what you've given so far for action and
25 I would ask that you commit today that you and Peggy and Haywood, for
26 example, would form a work group that would act in the next six weeks

1 to delineate clear protocols around some of the issues that have been
2 raised here. That is to say, that they finish delineating them in six weeks,
3 and that the composition of that be determined with the incoming chair,
4 the outgoing chair -- four weeks? All right, four weeks -- the incoming
5 chair, the outgoing chair and yourself as the lead political entity for this
6 branch.

7 We need certainty that there will be that working group in place and
8 that some resolution on these protocols be completed before the end of
9 your -- we cannot wait for a report back on the next NEJAC. There is no
10 guarantee of accountability or -- okay, so we need that

11 Second of all, I'm willing to -- if you decide -- you know, talking about
12 the legalities is particularly galling when it comes to an agency-wide
13 policy on environmental justice. There is no way -- I need you to commit
14 that there is no way that you could publish that in the Federal Register
15 without this group having seen it first.

16 You know, I was urging on Monday that we find the rules that we
17 can push Clinton to sign before the 26th or the 20th -- that we find the
18 statutes that we want to push in the next Congress. That's great, but it's
19 clear to me if you feel that this has not been released to state
20 stakeholders or to industry, or tous, that putting it in the Federal Register
21 is a suicide run without consultation with us.

22 So I'm going to bag the hope that getting it in the Federal Register
23 would keep it alive because I'm sure it would kill it, as we can see from
24 the Title VI experience.

25 So at this point I need you to guarantee us that we're going to see
26 it before it goes in the Federal Register, and I need you to guarantee to

1 us that before your resignation takes effect we will see, if not the
2 guidance, a very detailed summary of what the work has been to date.

3 So those are two things I'd like to ask for like now.

4 MR. HERMAN: Well, I won't give them to you now, Michel. I feel
5 very strongly that I want to go back and talk to some relevant people at
6 the agency and carry back what -- you know, what you and others have
7 said, and share that with other people and get their thoughts also. And
8 I will give you an answer very quickly.

9 In terms of your other proposal, that I feel -- you know, I feel very
10 comfortable with and we can convene a meeting and expand the group,
11 you know, if we have to, which I think we will, after that.

12 MR. GELOBTER: You're saying that you can't -- so, you're agreeing
13 to the work group piece, but you're saying that even a summary of what's
14 intended, like Barry's PowerPoint presentation, can't be given to us
15 before you leave?

16 MR. HERMAN: I didn't say that. I thought the issue -- the issue we
17 were talking about was releasing -- sharing the guidance --

18 MR. GELOBTER: Prior to Federal Register --

19 MR. HERMAN: -- prior to the Federal Register. And what I would
20 like to -- you know, I think you've raised some very serious issues and I
21 would like to have a chance to discuss them with some people back at
22 the agency.

23 MR. GELOBTER: Okay. How about this? If it is legally admissible
24 for a FACA to see these things, that you will guarantee that we'll see
25 them? It is, after all, the guidance on environmental justice and we are
26 the NEJAC.

1 I mean, I can understand your being hesitant because you're not
2 clear on the law, but --

3 MR. HERMAN: It may -- this is not -- I don't want to hang this up on
4 a question of legality. I have heard what you said and I know your
5 concerns and I know what you're thinking, and I know what some other
6 people have said, and before I go and change anything, I intend to
7 discuss it with some other people.

8 MS. SHEPARD: I would like to say also, Steve, that over the last
9 few months there have been a lot of concerns about the future of NEJAC,
10 there have been a lot of conversations about how NEJAC should change
11 or if it should change. It's very, very important that those are discussions
12 that are collaborative, that are consulted, that we are consulted on those
13 issues, and that we all make some determinations and move forward
14 together. That these are not decisions that are made and we are then
15 informed of them, but they are collaborative.

16 Are there any other comments before we close this part of the
17 agenda?

18 (No audible response.)

19 MS. SHEPARD: Okay. Thank you, Steve, very much for coming
20 and for listening and taking this back, and we look forward to hearing
21 from you soon.

22 MR. HERMAN: Good. Well, thank you very much for -- you know,
23 for having me to have this discussion, and I look forward to getting back
24 to you soon. Thanks.

25 MR. GELOBTER: As much as it feels that way, it wasn't just a ploy
26 to see you one more time.

(Laughter.)

MR. HERMAN: Likewise.

MR. GELOBTER: Thank you.

MS. SHEPARD: We'll take a five or ten minute break. Ten minutes. That would put us back here at 1:30 -- 2:30, I'm sorry.

(Recess.)

MS. SHEPARD: Let's see if we have a quorum. I'd like to call the meeting back to order. We're going to start with committee reports. Please keep them succinct and just necessary. We'd like to also get to discussion before we end on the public comment period. So, please keep the committee reports brief and succinct.

MR. LEE: Could I say something?

MS. SHEPARD: Charles.

MR. LEE: I was just going through my box -- cleaning out my box of materials. I had actually one copy of the viewgraphs of the Environmental Justice Policy Guidance so I asked them to make copies of it for everyone.

(Applause.)

MR. LEE: They're just the viewgraphs, you know.

MS. JARAMILLO: Would you repeat that again. Did I hear right?

MS. SHEPARD: Okay. Who would like to begin with committee reports? Annabelle?

COMMITTEE REPORTS

AIR AND WATER SUBCOMMITTEE REPORT

MS. JARAMILLO: I'll start and I'll try to follow your rules, Peggy. If I get carried away, just let me know.

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The Air and Water Subcommittee met on Wednesday and had a little bit of a different process than we usually had. We had a couple of presentations and then broke down into work group meetings, which seemed to work very well because oftentimes we don't get enough time to do our work and our goal this time was to really get into the nitty-gritty of some of the work we've been doing and then being able to report out and move on with some action items.

The two presentations we did have were focused -- one of them was focused on asthma initiatives and a guidance -- excuse me, there were two presentations, one focused on asthma initiatives, and the second was a guidance to reduce toxic loadings.

The presentation on asthma was made by David Rowson who is from the Center for Healthy Buildings from the Office of Radiation and Indoor Air. He discussed ambient air issues in terms of indoor air and primarily focused on the asthma epidemic and its impact on environmental justice communities.

He had several slides, and I think this is one piece that maybe ought to be shared with some of the other subcommittees and maybe Mr. Rowson or somebody else can be invited to give some more presentations, because it was very good. He did talk about some of the things that EPA is working on in this area in terms of focusing on asthma. There is now a national ad campaign being developed and some of these ads have been tested with inner city Hispanic and African-American communities.

Jeneva Craig reported on the EPA Guidance for Toxic Loading. They're working on the guidance and they're going to do some pilot work

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before this guidance is really put out for review. They want to see if some of the things they want to do with it actually work on the ground, and then that guidance would come to us for review before it's put out.

The subcommittee has four working groups: Permitting, Urban Air Toxics, Public Utilities, and Fish Consumption. Damon Whitehead -- or, excuse me, Eileen Gauna leads the Permitting Work Group. It was a two-member work group. One of our subcommittee members has now retired from the committee so it's all up to Eileen.

Her goal over the next year is to try and increase the size of the work group. I know that she would be very grateful to any of you if you have some suggestions to her about people who would be interested or have some expertise in the area of permitting and also in the area of cumulative permitting. Her address I think is in the notebook and it would be very useful to her if you could get in contact with her.

In that work group they also discussed the Title VI guidance which supposedly will not be issued until summer, if it's issued at all.

Urban Air Toxics, Damon Whitehead chairs the group. They discussed the work plan of the Clean Air Act FACA on urban air toxics. Elaine Barron and Bunyan Bryant from our subcommittee participated in that effort, and the work group from our subcommittee will use that FACA report to develop some recommendations.

The Urban Air Toxics Group also will provide comment to the National Scale Assessment which is scheduled to come out in early 2001.

There was considerable discussion on monitoring. One of the things that came out is that there are too few data regarding urban air

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toxics, and the work group will continue to ask for more follow-up in this area.

The Diesel Rule will be released soon. The work group will monitor the work in that area and provide more background information to the subcommittee and to the NEJAC when it's available.

The Public Utilities Work Group is led by Dan Greenbaum. The committee requested from EPA more data on existing utilities, such as how many are there, where are they, the enforcement status on some of those, permitted versus actual use, and so on.

They were given a summary of four pollutant bills aimed at reducing further emissions which are making their way through Congress.

Fish Consumption, the work of the committee, led by Leonard Robinson and Moses -- how does Moses pronounce his name? -- Squeochs? We might want to be correct about it for the record. Squeochs. He's from the Indigenous Peoples Subcommittee. Moses and Leonard co-chair the Fish Consumption Work Group. They are focused on the December 2001 fish consumption NEJAC meeting in Seattle.

The group was asked for input on this committee, and with the very forceful energy of these two individuals, they've actually taken over in planning the agenda for that meeting and have made it very clear that unless they get a red-light, they're going to keep moving on some of the plans.

Marva and Charles Lee from the Office of Environmental Justice did participate in that, and I think it was a very fruitful discussion about what might happen at that meeting in Seattle.

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1 The other thing that we discussed during our sessions was the
2 PREPA report, and I think I've put that into the record this morning so we
3 would not lose that, and that's been passed out to you.

4 Some of the actions for the coming year will be to develop a concept
5 for a Citizen's Guide dealing with existing or new power plants, looking
6 at resolutions or recommendations related to the four pollutant bills I had
7 mentioned earlier -- we'll be getting more information on those bills and
8 probably will need to analyze them very carefully before we can make
9 any recommendation on them.

10 My understanding is that the agency oftentimes is called to the Hill
11 to give testimony on some of these things, so our recommendations
12 would center on what we think the agency might want to say.

13 We will be working on developing a resolution on the Off-Road and
14 Diesel Rule. There will be comments on the National Scale Assessment,
15 continue work on the fish consumption meeting, as I said earlier, and try
16 and complete a manual for effective community involvement on
17 environmental issues. This was a project that was begun by Bunyan
18 Bryant and he's now got the commitment from two graduate students
19 who want to work on this, and EPA has the names of those students to
20 see if we can get them moving forward on it.

21 Dana Minerva, who is leaving EPA -- she's a political appointee --
22 offered some suggestions -- actually, offered a list of things for us to
23 watch for. She wants us to keep track and watch and ensure that the
24 Tribal water standards which have been endorsed by Tribal Governments
25 and are still at OMB, actually do come out. And so that's something to
26 watch for.

1 The CAFO Rule is scheduled to come out December 15th. There
2 are some new sewage treatment authorizations being proposed that we
3 should watch for. There is a risk communication conference scheduled
4 in May, and the risk communication conference is based on fish.

5 She voiced some concern regarding an incoming administration's
6 position on government-to-government relationships with the Tribes and
7 especially in relation to some of the things I mentioned earlier in Tribal
8 water standards, and so she felt we should really watch that very closely
9 to ensure that that government-to-government relationship continues.

10 Another issue she said we should keep focused on is the Arctic
11 POPs issue and fish testing.

12 Rob Brenner from the Office of Air and Radiation told us that they
13 will be coming out with some mercury determination rules soon. The
14 Diesel Rule will be coming soon. There will be the new proposed Off-
15 Road Diesel Rule. They will be looking at a new source review and
16 obviously the four pollutant bills I talked about earlier, and more on air
17 toxics.

18 The subcommittee finally approved its Mission Statement, after two
19 years and another half-hour on wordsmithing on one sentence. And so
20 I feel that was a real accomplishment.

21 The one recommendation I would like to advance to the NEJAC at
22 this time is that Eileen Gauna would like to be ratified as Vice Chair of the
23 Air and Water Subcommittee. In reading the Bylaws, it's my
24 understanding that this Council can do that, and so that's what I would
25 ask the Council to do at this time.

26 So I would move that Eileen Gauna be approved as the Vice Chair

1 of the Air and Water Subcommittee.

2 MS. TRAVIS-MILLER: So moved.

3 MS. SHEPARD: Is there a second?

4 PARTICIPANT: Second.

5 MS. SHEPARD: Okay. Call the question.

6 MS. TRAVIS-MILLER: Question.

7 MS. SHEPARD: Please everyone, in voting yes.

8 (Show of hands.)

9 MS. SHEPARD: Any no? Abstentions? Okay.

10 MS. JARAMILLO: Thank you. That is our report.

11 MS. SHEPARD: Great. One question. Did you say that the Title
12 VI Guidance wouldn't -- might not be published before the end of the
13 year?

14 MS. JARAMILLO: That's what we were told. I was not in that work
15 group meeting. Let me see, is Eileen still here?

16 MS. SHEPARD: Perhaps the Enforcement Subcommittee could --

17 MS. JARAMILLO: Yes, they may get --

18 MS. HORNE: Yes. Jasmin Yorker presented and she was of the
19 opinion that she could not give a definite timeline. We asked if it would
20 be available in February and she said she doubted it, but that they're
21 headed towards that.

22 MS. JARAMILLO: I think that was the same kind of sense that our
23 group got, that it may not even be available until summer.

24 MS. SHEPARD: Okay, thank you.

25 MS. JARAMILLO: Any other questions?

26 MS. SHEPARD: Any other questions?

1 MR. GELOBTER: Just a brief add-on from the public utilities
2 subcommittee. The four pollutant bills have significant trading
3 components. That's one thing for the other committees that are worried
4 about trading, that we're looking at carefully two dimensions. One is they
5 do look at creating in entitlements and No_x and carbon dioxide. What's
6 the third pollutant? Mercury? Is it So_x? I don't think it's So_x.

7 MS. JARAMILLO: Yes, I think there was --

8 MR. GELOBTER: I can't believe I don't remember.

9 MS. JARAMILLO: There's too much alphabet soup in there.

10 MR. GELOBTER: Yes, right. Nitrogen oxides, sulfur dioxides and
11 CO₂, or carbon dioxide.

12 One of the big concerns I think in the environmental justice
13 community is about giving away -- creating entitlements to pollutants for
14 which there are no permits yet, carbon dioxide. There are permits for the
15 other pollutants, but once we start giving away permits for CO₂, it's like
16 giving away the air waves in terms of the net boon to industry potentially.
17 That's something we have to watch very carefully.

18 MS. SHEPARD: Who would like to go next? Tom.

19 INDIGENOUS PEOPLES SUBCOMMITTEE REPORT

20 MR. GOLDTOOTH: Before I start, one of our subcommittee
21 members handed me a statement he wanted me to read. The most
22 appropriate time to read this would have been this morning when we
23 were giving awards out and recognizing the people who are leaving. He's
24 one of the individuals that is leaving.

25 Why I want to do this, also, it brings attention to the role and the
26 hard work that subcommittee members play. I now that there's

1 recognition of the chairs and the Executive Committee, but it's the
2 subcommittee members also that put a lot.

3 So I'm going to read this statement by Brad Hamilton who is one of
4 our Native People who is director of the state Indian Affairs Office for the
5 State of Kansas. It goes:

6 "This is my final NEJAC meeting. It has been my observation that
7 to serve your fellow man in public service and to serve and defend your
8 family are two of the most rewarding endeavors you can strive to achieve.

9 "Each of you on the NEJAC and its subcommittees have selected
10 the path of public service to the family of mankind and the defense and
11 protection of the environmental family of the Mother Earth upon which we
12 live. Each of you have chosen to make a positive impact upon the web
13 of life by your commitment to the cause of environmental justice.

14 "I am filled with the sense of both humility and pride to have served
15 with each of you. I've heard that once upon a time giants of history
16 walked in this place we call Washington, D.C. I know that giants have
17 walked here because it has been my great honor and privilege to have
18 walked in the footsteps and amongst the friends, leaders and giants of
19 the environmental justice movement.

20 "Thank you for your sacrifice, leadership and commitment to
21 environmental justice and to the generations yet to come. God be with
22 you till we meet again. Brad Hamilton."

23 (Applause.)

24 MR. GOLDTOOTH: Brad had to leave so I'm thankful for Brad
25 having put those words together because it's also a reminder to me of
26 why we do what we do.

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1 In our Indigenous Peoples Subcommittee we had a full agenda, and
2 in preparation for our meeting we wanted to keep focused on what the
3 overall theme of this NEJAC was. In preparation for our meeting we had
4 talked about the importance of inviting various federal agencies that have
5 responsibility in Indian Country to have those agencies come and do a
6 presentation on what they're doing as far as policy, as far as outreach,
7 services to our Tribes concerning environmental protection,
8 environmental justice and protection of our natural resources.

9 So in preparation of that meeting we had some talking points so that
10 each person was able to address issues mainly to respond to the
11 question of how are you effectively carrying out environmental justice in
12 Indian Country in the area of your agency.

13 It was very educational as we went through the day, hearing the
14 various agencies and what they're doing. In looking back, I was
15 impressed that the capacity of each agency varied in what they are doing.
16 Some had guidance documents, some had policy, and some did not.
17 Some agencies weren't aware of what the other agency was doing, so it
18 was very beneficial for those other agencies to see what their federal
19 family members were doing.

20 The agencies that we invited that did do presentations were the
21 Agency for Toxic Substances and Disease Registry, Dr. Francisco
22 Tomey-Torres the Minority Health Specialist; from the Department of
23 Defense, we had Len Richeson from the American Indian and Alaska
24 Native Liaison Office. We also had some other staff folks from the
25 Environmental Office within DOD that were there as well.

26 We had a representative from the Department of Energy who was

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1 Derrick Watchman, Director of Indian Affairs; Department of Justice,
2 Heather Sibbisson, Counsel to the Assistant Attorney General for
3 Environmental and Natural Resources.

4 The Advisory Council on Historic Preservation, Valerie Hauser,
5 Native American Liaison. The Department of Interior, the Bureau of
6 Indian Affairs, Elizabeth Bell, Counsel to the Assistant Secretary of Indian
7 Affairs. And we also had some other Department of Interior staff folks
8 that were from the BLM, the Bureau of Land Management, and Willie
9 Taylor as well with the Environmental Justice Office of the Bureau of the
10 Interior.

11 We also had the representative from Department of Agriculture from
12 the U.S. Forest Service, Dorothy Firecloud, Tribal Coordinator, and
13 Robert Ragos of the Office of Civil Rights.

14 Department of Housing and Urban Development, James Floyd,
15 Director of Native American Office. And we also had a presentation by
16 Karen Suagee, Office of Education Research and Improvement from the
17 Department of Education.

18 I'm not going to go into an overview of each agency's presentation,
19 but through their presentations it was very helpful to us as committee
20 members to be able to have a better handle on just what these agencies
21 are doing which would help us to develop recommendations back to
22 NEJAC here. Our goal is to draft up recommendations on how federal
23 agencies can improve their environmental justice outreach to Tribes in
24 their commitment to environmental justice.

25 Out subcommittee members have accepted responsibility in the
26 near future to do follow-up and through conference calls to develop a set

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1 of recommendations around this issue.

2 Some of the highlights we found as far as recommendations, we
3 have a list of them that we brainstormed. I'm not going to go in detail, but
4 I'll just read a couple of them.

5 Some of the recommendations -- and, you know, we're going to
6 discuss these more, flesh them out a little bit more -- but one was like, for
7 example, existing laws are not being implemented in Indian Country;
8 financial and technical resources and training; for Tribes and federal
9 agencies is needed to enhance awareness and understanding of the
10 laws, regulations and policies.

11 Each federal agency should develop a tracking system, a diary of
12 tribal environmental justice complaints, in order to hold the agency
13 accountable for responding equitably to tribal concerns and needs. For
14 an example, the Department of Defense has a tracking system that they
15 explained to us in their presentation which we thought was very
16 innovative and could be applied to other federal agencies.

17 That tracking system is on their Web page; that way there's
18 transparency. Any community member, tribal leader -- we can go right
19 into the Web page and look at the various communities that are being
20 affected by Department of Defense facilities or jurisdictions within the
21 DOD facilities.

22 Other areas we looked at is that this Advisory Council on Historic
23 Preservation is something that's very often overlooked in areas of
24 environmental assessment, environmental impact statements and
25 probably even in the permitting system, Section 106.

26 That presentation was very education for everyone and really

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1 stressed the importance of Section 106 of the Historical Protection Act
2 and that it needs to be recognized, that really is a mechanism for us to
3 be able to express important issues such as cultural and historical sites
4 in these review processes.

5 There are other numerous recommendations that we had. You
6 know, we see that there's still a need for federal agencies to cooperate
7 with each other in the area of education. Within the Indian community
8 the American Indian colleges, community colleges and universities we
9 felt weren't really being included in a lot of the partnerships that the EPA
10 agency has undertaken. So that's going to be one area that there's going
11 to be a recommendation.

12 So the subcommittee is going to be looking at these notes that
13 we've compiled in further developing them.

14 We had Terry Williams also sit in and participate in some of these
15 discussions, as well as some other people that we called upon that were
16 there as observers. Terry Williams made some really good suggestions
17 that we're going to be taking into consideration based upon his
18 experience as being the previous Director of the American Indian
19 Environmental Office and his experience out there in the field as Director
20 of his respective Tribal program.

21 He stressed the importance that anything that we do as Native
22 People needs to continue to stress the importance that it needs to be
23 culturally based. A lot of the issues that we deal with with federal
24 agencies, we feel that the agencies still do not understand, don't want to
25 understand, or whatever, our culture -- the importance of our culture, our
26 history, our language.

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1 One other area that we went into. From there we had a public
2 comment from some representatives from the Lower Brule Lakota Tribe
3 in South Dakota that was very appropriate as far as an agenda item of
4 federal agency issues because it put a face to the issues.

5 Some of the issues that they talked about were issues in the NEPA
6 process. At the Tribal level they like to be involved, the community, the
7 elders, the Tribal leaders, the staff people. But they felt that in order to
8 participate in issues that they're dealing with at Lower Brule, South
9 Dakota, such as the Missouri River -- there's some land acquisition
10 issues that involve transfer of land in what's called La Framoise Island
11 and it involves a NEPA process. They wanted to be more active in that
12 so they needed training. And they just completed some training. But
13 they stressed the importance that a lot of our tribal communities need to
14 have training in NEPA. Also some of that involves Section 404 of the
15 Clean Water Act.

16 Another issue that they brought up was some clarification on the
17 General Assistance Program funding that comes out of the American
18 Indian Office of EPA. They felt that it may have been too restrictive for
19 them to do work in NEPA. So we sought some clarification for them on
20 that, and I believe that department is still going to get back to them with
21 some clarification.

22 Another area they stressed was the concern about protection of
23 sacred sites. I mean, throughout the years of this body here we've heard
24 numerous testimony about the failure -- how laws are inadequate towards
25 the protection of our sacred sites. They listed a number of sacred sites
26 that they feel that there's no federal laws or state laws that are protecting

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1 those sites.

2 We referred a lot of the issues that they're dealing with to various
3 departments and we're going to follow-up with those issues with them.

4 Because we ran out of time, in order to respect the commitment of
5 the various federal representatives that came we had to change our
6 agenda so some of the agenda items you have in your notebook that we
7 had talked about we're going to discuss those on future conference calls.

8 But I need to mention that from the Indigenous Peoples
9 Subcommittee for two and a half years we've been requesting that one
10 of the NEJAC meetings be in Alaska. I need to mention that again. It's
11 been something that has been denied from the Director of the Office of
12 Environmental Justice as something that's not financially feasible.
13 However, you know, we have met with the environmental justice
14 coordinator in Region 10 as well as the Indian coordinator in Region 10.
15 They felt that there is a financial mechanism where they could make that
16 possible.

17 The Alaska people feel they're disenfranchised and they don't have
18 accessibility to these NEJAC meetings in the lower 48. So that is a
19 continuing agenda item of the Indigenous Peoples Subcommittee that we
20 weren't able to address yesterday.

21 We are participating in the Fish Consumption Subsistence Foods
22 Working Group with one of our members, Moses Squeochs who is going
23 to be participating in that and reporting back to us.

24 It was very good to have Elizabeth Bell from the Department of
25 Interior because for those of you who don't know on NEJAC, the Bureau
26 of Indian Affairs is the lead federal agency that has trust responsibilities

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1 with American Indian and Alaska Native tribes and villages. She
2 provided a lot of useful information to us in her presentation, and she's
3 going to be sending us a copy of the executive policy for consultation with
4 Tribes that I think just got signed.

5 We're going to be having a presentation in the future on energy
6 efficient programs in Tribal lands as an alternative to a lot of issues that
7 we're dealing with. Renewable energy, we feel this is part of the
8 environmental justice agenda that we're going to be working on.

9 I think that kind of summarizes some of the issues that we've been
10 dealing with. I just wanted to mention that one of the concerns that we
11 weren't able to talk about, however, that did come to us from one of the
12 Native participants is the importance of more American Indian and
13 Alaska Native staff people within the agency. We need to continue to
14 look at that as an issue.

15 Also, we need to look at what is the criteria that you utilize within the
16 EPA agency as far as identification of American Indian. It was felt that
17 some people -- yes, there's 110 American Indian and Alaska Native staff
18 out of 17,000 personnel within the agency. That is an environmental
19 justice issue.

20 I think the criteria for who can identify as Indian is pretty lax. We're
21 concerned about that because when it comes to discussion around the
22 American Indian and Alaska Native issues we're dealing with rural areas,
23 reservation-based areas, issues of sovereignty and treaty rights, and if
24 we have Native staff people in discussion around our issues, they should
25 at least be familiar with our issues, familiar with our communities. That's
26 something that needs to be looked at.

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1 Just to let you know that one of our committee members wasn't able
2 to get here yesterday because of weather problems. But he brought us
3 some documents in reference to a Title VI complaint that's going to be
4 filed by the Pitt River Tribe in Northern California concerning Medicine
5 Lake. The Title VI complaint is against the State of California.

6 I'll just let you know so you can be aware of that and put that on your
7 radar screen so that we can track that issue. It concerns the siting of a
8 geothermal facility in a sacred area of Mount Shasta. The Tribes in that
9 area, as well as environmental groups, are concerned about that. They
10 have papers that they've given us, and I just wanted to mention that to
11 you.

12 I think that's about it. Thanks.

13 MS. SHEPARD: Thanks, Tom.

14 Tom, have you ever gotten any numbers as to the percentage of
15 Native Americans or other ethnic groups that are employed by EPA in the
16 regions?

17 MR. GOLDTOOTH: No.

18 MS. SHEPARD: Okay. Is that something that we could get,
19 Charles? Looking at the breakdown of ethnicity and race of personnel in
20 the regions?

21 MR. LEE: Sure. Sure. We can get that to you. We'll have
22 somebody do it in the next, you know, couple of weeks, I'm sure. We'd
23 be able to get that and send it to you.

24 MS. SHEPARD: Also, Tom brings up the issue of site selection
25 again. I just wondered if we could look at where all of the NEJAC
26 meetings have been and see if all of the regions have been covered.

1 MR. LEE: Sure. I mean, just as a point of information, the next two
2 meetings are planned, one in Baltimore and one in Seattle. There are no
3 more planned, in terms of site selected, after that. That's just a point of
4 information.

5 MS. SHEPARD: But it would be good to know that, you know, so
6 far in all of our years we've covered at least every region.

7 MR. LEE: Yes.

8 MR. TURRENTINE: Peggy, one thing. If the proposal that has
9 been made today regarding some of the glitches and corrections that
10 we're recommending, I think we can take that up at that time, you know,
11 in terms of site selection.

12 MR. LEE: Yes, but we'll get the information. That should be no
13 problem.

14 MS. SHEPARD: Okay.

15 MR. LEE: Could I just say one other thing? The Alaska Native
16 issue that Tom mentioned is a very significant issue. One of the reasons
17 why Seattle was chosen was to -- and the Seattle meeting was to be
18 timed possibly with a measure Tribal conference that draws a lot from
19 Native Alaskan tribes.

20 There are a number of other activities, particularly from the
21 Interagency Working Group perspective, that's focused on Alaska
22 Natives following up to that roundtable in Albuquerque. And so there's
23 going to be a major panel on this in Alaska which is sponsored by the
24 Department of Interior on February 5th through 9th.

25 I said that I have to go to Alaska in February, something I did not
26 want to do in February anyway. But that's going to take place.

1 MR. GOLDTOOTH: Peggy, the Alaska Natives that we work with,
2 including Sarah James who is our outgoing member of our
3 subcommittee, they are aware that there is going to be a NEJAC meeting
4 in Seattle in late 2001, but they feel that still that doesn't meet their
5 needs. There's over 200 tribal villages and Tribes in Alaska. It's even a
6 challenge to get them to a meeting in Anchorage or Fairbanks, let alone
7 getting them down to Seattle.

8 Resources are very limited for them. It's additional money for them
9 -- they all have to come out of Anchorage or Fairbanks to Seattle. That's
10 additional amount on tickets. But the Alaska Native people, the villages,
11 the Tribes, feel that they haven't been included as far as within the
12 NEJAC process. They have brought this up numerous times.

13 So one way that we've responded to that is try to create dialogue
14 and get NEJAC to actually agree to have a future NEJAC meeting in
15 Alaska. And there are agency staffers that are willing to cooperate and
16 help to do that, and the Indian coordinator out of Region 10 even
17 developed a budget on how that can happen.

18 MR. LEE: I think that that should be responded to. I hear you, you
19 know, in terms of the request. Having a NEJAC meeting in Alaska is not
20 the easiest thing to pull off. I would suggest that we continue that
21 discussion; we don't need to get into it here. I do want to note that is not
22 a request that is unheard.

23 It's not a request that we've been able to answer in the affirmative
24 yet on, but it is something that we need to have further exploration of.

25 MS. SHEPARD: Okay, thanks. Vernice.

26 WASTE AND FACILITIES SITING SUBCOMMITTEE REPORT

1 MS. TRAVIS-MILLER: Thank you, Madam Chair.

2 As usual, the Waste and Facilities Siting Subcommittee had a very
3 full agenda and I want to briefly -- go ahead.

4 MS. JARAMILLO: Yes, I had a question, or actually, a comment on
5 Tom's before we move on, if you don't mind, Vernice.

6 MS. TRAVIS-MILLER: That's okay.

7 MS. JARAMILLO: Tom, one of the things that I'd be very interested
8 in, in the handout you talked some about Terry Williams' suggestions and
9 the goal being cultural sustainability. I'd be very interested when you've
10 fleshed all that out, when those have developed more fully, because I
11 think it would offer a very good model for community sustainability all
12 over in the EJ communities.

13 Sustainability is a new catchword, if you will, for a lot of things that
14 are going on in government, so I think it would be an opportune time to
15 jump on that, that sustainability bandwagon, and really talk about what
16 our community sustainabilities are and what the needs are for that. So
17 that's something that I think that I'd like to have you share with us.

18 The other thing is you mentioned the makeup of -- the
19 representation of American Indian and indigenous people within EPA. It
20 reminded me that we had requested from EPA a couple of years ago
21 data on the representation of individuals from minority and EJ
22 communities on FACAs. I'm not sure we've gotten that information. I'm
23 wondering if we need -- I just want to bring it up so that we don't lose that
24 again.

25 I notice Charles is leaving the room, so I'm going to bring this up to
26 you again.

1 The question was, Charles, that a couple of years ago I believe that
2 we requested information --and I don't remember who the person's name
3 was -- that we wanted to know what the representation of EJ
4 communities might be on the other FACAs within EPA. I just wanted to
5 raise that to you because I don't think we ever got a response on it.

6 MR. LEE: Let me see. Have we responded to that yet?

7 PARTICIPANT: We asked the office that manages the agency
8 FACAs for that information, and they don't keep the information that way.
9 The people on the FACAs are not recorded by ethnicity.

10 MS. TRAVIS-MILLER: Are they recorded by stakeholder group?

11 PARTICIPANT: Yes. And we can get that. We can get it by
12 stakeholder group.

13 MS. JARAMILLO: That might be one way of getting at it to find out
14 what stakeholder groups have been --

15 PARTICIPANT: We can get that. That's no problem.

16 MS. JARAMILLO: Okay.

17 MS. RAMOS: I can say something regarding this. Madam Chair?

18 MS. SHEPARD: Rosa Hilda.

19 MS. RAMOS: I just wanted to tell you, to remind you, that although
20 we did not receive, you know, like a table of how many community
21 members were part of the FACAs, we did receive lists of the members
22 and we concluded at that time that there were almost no community
23 representatives in many of the FACAs. For example, the oil and
24 petroleum industry FACAs were almost all petroleum industry members.

25 So at that point we requested, you know, what was the policy to
26 invite the members to the different FACAs, and suddenly EPA, you know,

1 got paralyzed and did not send us any information on that.

2 MS. JARAMILLO: Well, maybe a better thing to do would be to
3 send a letter requesting that community members be made a part of that
4 FACAs and perhaps suggesting some groups.

5 MS. RAMOS: I think, you know, NEJAC should move forward to
6 make a specific recommendation to EPA to guarantee grassroots
7 community representation in all FACAs. The investigation was already
8 made and completed and we know there is very scarce representation.
9 I think you should move on and prepare this clear recommendation to
10 guarantee a fair participation to affected communities.

11 MR. LEE: Can I say something about that?

12 MS. RAMOS: Let me tell you that some industries, even when the
13 FACAs has more than enough representation, have filed lawsuits against
14 the government because of not being represented. So how in the world,
15 you know, communities are being left out. I think it's about time that
16 communities start filing lawsuits against the government because of that.

17 MR. LEE: I mean, this is just a point of information. You know
18 there is an Office of Cooperative Environmental Management in EPA
19 which is the office that oversees the operation of the FACAs under
20 charter by EPA. I think there are 26 FACAs.

21 There has been a series of dialogue going on among DFOs in terms
22 of raising the issue and discussing how to make the FACAs more
23 diverse, racial ethnically diverse.

24 Of course, there are two questions. One is racial ethnic diversity
25 and the other is stakeholder representative, particularly for community-
26 based organizations or representatives. I think those are two avenues in

1 which this discussion can be pursued.

2 Another interesting development. Haywood was part of the first ever
3 meeting of chairpersons of Tier 1 FACAs, meaning FACAs such as
4 NEJAC and other -- I don't know you describe it, but FACAs. I think the
5 issue of diversity representation did come up in that discussion.

6 So, I mean, this is just by way of background to you because this is
7 an important issue and those are avenues to further this kind of
8 discussion.

9 We could get you all the information that is possible to get in terms
10 of the various breakdowns and things of this nature.

11 I would also suggest that once you have that information, we can
12 talk about who to best contact for a discussion, as well as other things.

13 MR. TURRENTINE: Charles, also during that meeting -- and I
14 raised the question about stakeholder groups and ethnicity on the various
15 FACAs. And when it was pointed out to me that quite a bit of the FACAs
16 didn't have any, I asked the question why and got the usual answer that
17 one would get about not knowing any.

18 Then they challenged us -- not in a negative sense challenged, but
19 they said, if you will give us names, we'd gladly appoint them to these
20 FACAs. These were the chairmen of the various FACAs themselves.

21 So I think if we, as the NEJAC, start to identify names of people and
22 look at the background and get resumes on those people, I think we can
23 make some progress in terms of getting the people on those FACAs.

24 I've been asked to serve on three different ones and I've not at this
25 point decided what to do, if to do anything.

26 The question was raised. I think they recognize they have a

1 problem. And they're certainly asking us -- because they don't know
2 anybody else to go to, so they're asking us to provide them with people
3 that they can name to those FACAs.

4 MS. SHEPARD: Rosa, quickly.

5 MS. RAMOS: My recollection is that, you know, I received a call
6 asking for numbers, something like you know, give me the name now.
7 And, you know, that's not the way to complete a process of identifying
8 community leaders or people who are capable of representing abused
9 communities.

10 And let me tell you, watch out for that word "stakeholders" because
11 I perceive an intent to deny that, for example, that an African-American
12 community is necessarily a stakeholder because one community is
13 represented. You know, African-American communities is a different
14 stakeholder than a Puerto Rican abused community, and it's a different
15 stakeholder than a white community in the middle of an industrial
16 complex in Baltimore. You know, they are different groups. We share
17 the abuse but there is a difference among our resources and capabilities.

18 So watch out for that word because all types of abused communities
19 must be represented in those FACAs.

20 MS. SHEPARD: That's a good point. Thank you, Rosa Hilda.

21 Vernice.

22 MS. TRAVIS-MILLER: Thank you, Madam Chair. I'm not going to
23 cede the mike again until I'm finished with this report.

24 MS. JARAMILLO: Sorry.

25 MS. TRAVIS-MILLER: That's okay.

26 As I was saying, the Waste and Facilities Siting Subcommittee once

1 again had a very rich discussion, including the virtually all-day
2 participation of the OSWER Assistant Administrator Tim Fields, as well
3 as the all-day participation of OSWER Acting Deputy Assistant
4 Administrator Steve Luftig.

5 We had a two-hour discussion around land use planning issues as
6 well as an update on brownfields issues, including the status of the
7 Brownfields Program, responsible care with an industry representative
8 and supplemental environmental projects from the Office of
9 Environmental Enforcement Compliance and Assurance.

10 We then had community presentations from a representative from
11 the Vieques community in Puerto Rico and Reverend Curtis Dias from
12 Freetown, Massachusetts.

13 We then had EPA updates from EPA Region 4 on the Anniston,
14 Alabama PCB issue, a report on delegated authority and enforcement
15 activities by EPA Region 6 in Texas and Louisiana, and the Superfund
16 Relocation policy update.

17 We then concluded the day with a discussion of the federal
18 environmental justice demonstration projects that are relevant to our
19 subcommittee. We have four projects that are being undertaken by
20 members of the subcommittee, either retiring members or current
21 members of the subcommittee. That includes the Regenesys
22 Spartanburg project of which Hal Mitchell is a leading actor, the East St.
23 Louis project in which Michael Holmes is a leading player, and the
24 Bridges to Friendship project in Washington, D.C. that you heard
25 presented with the Department of the Navy and the Office of Solid Waste
26 and Emergency Response.

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1 These were the action items that came out of our discussion:

2 That the Waste and Facilities Siting Subcommittee would develop
3 an environmental justice paradigm for land use planning for local waste
4 and facilities siting decisionmaking.

5 In order to achieve this we will undertake the following actions:
6 development of a best practices manual on the environmental justice
7 implications of local land use decisions around waste and facilities siting;
8 develop a set of implementation issues associated with land use and
9 environmental justice; and develop a resource guidance on land use
10 planning instruments.

11 We will develop a work plan for discussion in our January 2001
12 conference call to begin to implement the land use planning framework.

13 We had a very rich discussion around the status of the Superfund
14 Program, but more importantly, we had an update on where we are with
15 the recommendations from the report that the Waste and Facilities Siting
16 Subcommittee produced in 1996 entitled "Authentic Signs of Hope
17 Around the Brownfields Program from EPA and the environmental justice
18 implementation actions within that, a report that was drafted by Charles
19 Lee and the members of the subcommittee.

20 Linda Garczynski gave a very extensive report back on the status
21 of the brownfields program and I just want to share with you the things
22 that Linda mentioned to us that I thought you all would like to know.

23 There have been 363 brownfields assessment pilots given to date
24 by EPA. There have been 36 brownfields training pilots given to date by
25 EPA. And 104 brownfields revolving loans have been given. \$165
26 million has been given by EPA to date in brownfields grants. 1,700 site

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1 assessments have been conducted, 600 sites were found not to be
2 contaminated, 167 sites are currently undergoing clean-up activity. \$2.3
3 billion has been leveraged on these properties.

4 The Economic Development Agency has funded 78 brownfields
5 pilots in FY-2000, the last fiscal year, and has additional pilots for this
6 fiscal year.

7 The 16 brownfields showcase communities have leveraged \$800
8 million in new investments.

9 The brownfields job training pilots have trained 500 people, of whom
10 400 are currently employed, earning an average of \$15.00 per hour.

11 So when we talk about the advances of the National Environmental
12 Justice Advisory Council, when we talk about our ability to influence
13 policy on the ground through the agency and throughout the Federal
14 Government, this is one of the most definitive examples we have of
15 where the NEJAC has affected the outcome and investment and
16 enforcement issues of the agency on the ground that affects the lives of
17 the communities and the constituencies that we care about.

18 We thought it was really important that Linda and the brownfields
19 program report back to us on how has the program met our objectives
20 from an environmental justice standpoint, and I think you can all say that
21 we've made real advances there.

22 We also talked about the Superfund Program. In terms of action
23 items we've asked that Linda Garczynski provide a copy of S 2700 which
24 is the Senate Brownfields bill that looks like it might actually pass in this
25 Congress or early in the next Congress, and that all relevant
26 correspondence and testimony be given to the subcommittee so that we

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1 could know what the current status of the legislative discussion around
2 brownfields at the congressional level is.

3 Thirdly, we have recommended that representatives of the
4 Massachusetts Department of Environment Protection that residents of
5 the Freetown community in Massachusetts and officials of EPA, OSWER
6 EPA Region 1 and the Massachusetts Attorney General's Office meet to
7 discuss how to collaborate to resolve environmental justice issues faced
8 by these communities.

9 The lead follow-up on that is going to be James Younger of EPA
10 Region 1 and the Deputy Assistant Administrator of Region 1, Ira
11 Leighton, and Veronica Eady of the Massachusetts Office of the
12 Secretary of the Environment.

13 Lastly, we had a very extensive discussion about issues relating to
14 the Puerto Rican island of Vieques, and these are the action items:

15 That the issue of continued bombing of the Puerto Rican island of
16 Vieques be used as a case study community for the Federal Facilities
17 Working Group.

18 I saw Brandon back there so this is going to come directly to you.

19 That other federal agencies, especially the Department of Defense,
20 be asked to join EPA in its further investigation of community concerns
21 about Vieques. That Region 2 communicate its actions re identifying
22 waste and clean-up activities, and that they be more clearly
23 communicated to the affected community. That there be ongoing follow-
24 up with EPA Region 2, OSRE and the Waste and Facilities Siting
25 Subcommittee on activities relating to Vieques and ongoing Navy
26 bombing activities vis-a-vis waste contamination and pollution of this

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1 island.
2 The community was particularly concerned that they continue to not
3 be able to meet the scoring criteria to be included as a Superfund site or
4 on the National Priorities List for ongoing clean-up.

5 Those were the action items and we move on to continue our
6 agenda.

7 MS. SHEPARD: Thank you.

8 Are there any questions or comments on that report
9 (No audible response.)

10 MS. SHEPARD: Okay. Marinele.

11 HEALTH AND RESEARCH SUBCOMMITTEE REPORT

12 MS. PAYTON: Thank you, Madam Chair. Again, I'd like to
13 acknowledge with gratitude the Executive Council, the chair and vice
14 chair, as well as the Office of Environmental Justice and those of you in
15 the audience and behind me who worked so hard to secure our trips here
16 and all of the daily activities and things that you do even when it comes
17 to tracking us down for conference calls, et cetera.

18 I'd like to state that the Health and Research Subcommittee had its
19 meeting centered around a health theme: Building Dynamic and
20 Proactive Partnerships to Eliminate Health Disparities in Environmentally
21 and Economically Distressed Communities.

22 This particular health theme follows the May 2000 health theme
23 when we looked at community-based research. At that time in May we
24 also had somewhat of an interagency forum or panel. We did the same
25 this time; however, the focus was strictly on --

26 (Statement lost due to AV system problem.)

1 MS. PAYTON: Where was I here?

2 For our particular meeting we did have an interagency forum.
3 Before I even mention the names of those participants, I'd like to
4 acknowledge our Designated Federal Official, Ms. Aretha Brockett who
5 singlehandedly, I'd like to say, called each one of these people and made
6 sure that we were going to have a representative at the meeting.

7 Ms. Brockett, would you please raise your hand. She's from the
8 Office of Pollution Prevention and Toxics.

9 Just to briefly name those persons on our panel, we were proud and
10 very happy to have with us representatives from the following: the
11 Department of Defense, Ms. Patricia Reyes; the Department of Energy,
12 Dr. Heather Stockwell; the Department of Education, Mr. Thomas Mela.

13 Let me state that one of our subcommittee members, Ms. Rose
14 Augustine, the Vice Chair of the Health and Research Subcommittee,
15 wanted us to add the Department of Education in our discussions over
16 the last few days and in our meetings. In my comments later on we will
17 see its significance.

18 The Department of Health Resources and Services Administration,
19 Mr. Hubert Avent; the Department of Housing and Urban Development,
20 Mr. Robert McAlpine; the Indian Health Services, Dr. Eric Broderick; the
21 Department of Justice, Mr. Quintin Pair; and the Department of
22 Transportation, Mr. Ronald Stroman.

23 We also had present our EPA representative program offices, Dr.
24 William Sanders from the Office of Pollution Prevention and Toxics and
25 Dr. Hal Zenick representative of the Office of Research and
26 Development

1 The theme of our meeting I stated earlier. However, we had to
2 focus on two goals we wanted to achieve from this meeting.

3 Number one, we wanted to ask, or at least to obtain information
4 from each of the agencies mentioned above on their existing
5 intercollaborative programs on environmental justice as they relate to
6 health.

7 Number two, their strategic plan in forming a collaborative
8 partnership in implementing these programs to secure healthy
9 communities.

10 And now what I would like to do is just to briefly give you some of
11 the outcome comments and recommendations that were generated from
12 the meeting.

13 Some of the panelists committed to provide members of the
14 subcommittee copies of their materials. For example, the Department of
15 Transportation had interesting materials and actually I think it would be
16 good if these materials were shared with the NEJAC Council.

17 We had Dr. Sanders who agreed to provide a written summary of
18 his presentation, as well as Dr. Zenick who committed to provide
19 information on the background materials and initiatives that he spoke of.
20 Also, Mr. Avent from HRSA who agreed to provide the subcommittee
21 information about ongoing environmental justice and community health
22 related efforts that they're actually doing in initiating community health
23 centers across the country.

24 The recommendations were as follows:

25 That the subcommittee make a recommendation to the Executive
26 Council to request that the EPA Administrator initiate a program to train

1 middle management staff of federal agencies on how to incorporate
2 principles of environmental justice in their day to day work. Middle
3 management was defined as those responsible for carrying out policies
4 and programs that have an effect on communities.

5 Also suggested was that the recommendation include a component
6 to allow for education senior executive service staff to raise the level of
7 awareness of environmental justice issues.

8 This came about when we learned from one of our panelists, the
9 Department of Defense, that it had no environmental justice office. So
10 we also agreed to recommend that the U.S. Department of Defense --
11 and those of you who have the sheet, if you'll refer to number 7, that
12 should be Department of Defense -- commit to establishing an
13 environmental justice office as a sign of commitment to the Executive
14 Order 12898 on Environmental Justice, as well as a step-by-step plan
15 toward achieving the intent of the order.

16 There was a recommendation to request that federal facilities
17 establish collaborative funds to address the health needs of communities.
18 Collaborative funds, especially, are important in the context of the reality
19 of earmarked funds and the lack of flexibility that agencies have on how
20 they spend their funds.

21 We also would like to recommend that the Department of Education
22 be added to the Federal Interagency Working Group on Environmental
23 Justice. Also we would like for other agencies to be included in that list.
24 For example, the State Department as well as the Nuclear Regulatory
25 Commission and the Department of Interior.

26 Members of the subcommittee felt that it would be good to review

1 the health report generated from the May 2000 meeting and identify
2 areas within the report that linked directly with the discussions that we
3 had during our meeting this time, as well as those issues covered
4 throughout our NEJAC December meeting because there is some
5 overlap. We've heard issues, for example, on public participation as well
6 as strengthening the intercollaborative partnership among agencies.

7 It was also suggested by subcommittee members that we obtain
8 copies of the strategic plans goals and objectives of these federal
9 agencies and to review them closely. We'd like to determine whether
10 they include environmental justice specifically as it relates to health. If
11 not, then we would like to recommend that they do include such issues.

12 I would also like to mention that our Vice Chair, Ms. Peggy Shepard,
13 Executive Director of West Harlem Environmental Action, Inc., will be
14 attending a conference in September 2001. She mentioned the potential
15 concern for not just Health and Research Subcommittee members but for
16 NEJAC members regarding the topic of discussion, which is on the
17 genome project.

18 I would like to ask Ms. Shepard if she would like to just say a word
19 about what she feels is the importance of our concern regarding that
20 particular project. If not, I can --

21 MS. SHEPARD: I just really wanted to begin to educate the
22 subcommittee to ethical issues of the human genome project, of the
23 challenges and benefits, perhaps, of such a project, and perhaps also
24 look at some of the ethical issues of the IRBs that are approving medical
25 research and look at issues of informed consent.

26 MS. PAYTON: Thank you. And the reason of this interest in

1 genome mapping, looking at the genes in particular of various
2 populations, minorities and Tribal populations, could of course have
3 some very controversial, I should say, outcomes in labeling communities.

4 We also recommended that the subcommittee write
5 recommendations to the Executive Council in requesting how federal
6 agencies can collaborate in providing health-based services to low
7 income and minority communities.

8 In other words, documentation should highlight the success stories.
9 For example, we had the Department of Defense to state that they have
10 set up collaborations with other agencies to do assessment. For
11 example, they have a partnership with ATSDR and CDC. So we would
12 like to know what sorts of strategic plans they had in actually initiating this
13 so it can be used as lessons learned.

14 Also, --

15 MS. SHEPARD: I just want to suggest that we hurry because if
16 anyone has action items, we're going to lose our quorum.

17 MS. PAYTON: Okay.

18 MS. SHEPARD: So, really, just key items.

19 MS. PAYTON: I'm almost done.

20 One of the things I'd like to mention is that we have heard
21 comments from public participants, for example, Ms. Yvonne McSwain-
22 Powell who represents the People Effective Against Chemical Eugenesi.
23 She's one of the persons that was referred to the subcommittee in
24 Richton, Mississippi. The concern there is with sealed contaminated
25 drinking water.

26 We also expected to hear from, and will be provided information, by

1 Peggy Lovera from the Center for Health Environment and Justice. This
2 is a very important issue. Her concern is regarding building schools on
3 contaminated soil.

4 Now, in addition, the subcommittee has been invited to have an
5 integral part as a participant in the upcoming Environmental Justice
6 Summit in April of 2000 (sic). It's being prepared and organized by the
7 Jesus People Against Pollution organization.

8 Lastly -- I'm leaving out a few things here -- we had an update on
9 our project, the Decision Tree framework. Just to briefly mention, this is
10 a project that I introduced to the subcommittee in 1998. It is basically a
11 tool that will comprise a repository of data, including models and tools,
12 in the community, as well as those that we have in the agency.

13 One of the things I was informed recently through this summer after
14 our former DFO was removed from our subcommittee is that he
15 continued to work on the Decision Tree and actually set up subcontracts
16 with other people to develop the Decision Tree. Actually, they were doing
17 work on it that we had already done.

18 I was invited to attend a conference call and was somewhat
19 dismayed to find this out. However, I was invited to give a presentation
20 this past Friday to the Office of Research and Development Science
21 Council. I was there for basically two reasons, as a follow-up for my
22 resolution that was submitted to the NEJAC and passed to request that
23 EPA prioritize this particular initiative as a priority research issue, and,
24 number two, to continuously provide funding and resources for its
25 development.

26 Out of the subcommittee meeting yesterday it was suggested that

1 the subcommittee write a letter to be forwarded to the Executive Council
2 requesting that EPA explain its agreement with those particular
3 associations that were contracted to work on the Decision Tree
4 framework, and also to provide the subcommittee with a report of
5 activities conducted under the agreement and submit copies of all reports
6 developed under the agreement to the subcommittee so that it can regain
7 control of the project.

8 In addition, the letter should request that EPA provide assurance to
9 the NEJAC that in the future ideas and products developed by members
10 of the NEJAC and its subcommittees will not be plagiarized.

11 Thank you.

12 MS. SHEPARD: What are you asking? Introduce who? Tom.

13 MR. GOLDTOOTH: I have a comment on Item Number 9 in your
14 recommendation that the subcommittee form a recommendation to the
15 Executive Committee in reference to requesting documentation, how
16 federal agencies can collaborate in providing health-based services to
17 low income and minority communities.

18 I would like to include in there American Indian and Alaska Natives
19 with specific reference to the Indian Health Service which is the primary
20 health care provider in Indian Country. Okay?

21 We just had a meeting with them sometime ago and they're still
22 figuring out what is environmental health and how to provide
23 environmental health services in Indian Country. Basically primary health
24 care is what they're dealing with.

25 I'm assuming throughout your document when you make reference
26 to "health-based services," you're talking about environmental health-

1 based services?

2 MS. PAYTON: Yes.

3 MR. GOLDTOOTH: Because Indian Health Service makes a
4 distinction between the two.

5 MS. PAYTON: Okay. So we should include the word --

6 MR. GOLDTOOTH: I don't know if that's a federal agency thing but
7 health-based services is primary health care according to the Indian
8 Health Service, from the Indian perspective, versus environmental health-
9 based services.

10 MS. PAYTON: Thank you.

11 MS. RAMOS: I have a question.

12 MS. SHEPARD: Okay, Rosa, it is 4:10. We really have a lot to
13 cover still, but --

14 MS. RAMOS: But this is important.

15 MS. SHEPARD: Okay.

16 MS. RAMOS: I really don't understand why it's so important to have
17 these copies of contracts -- city-county management association
18 contracts -- especially because you say that it's -- you don't want the work
19 of the NEJAC to be plagiarized.

20 It's my understanding that the work we're doing here, we want it to
21 be multiplied like a hundred thousand million times, you know. What we
22 are doing should be used by everybody at any time. That's what we hope
23 for. So I need an explanation on this.

24 MS. PAYTON: Well, actually, I don't have one, unfortunately. All
25 I know is this is something that I was recently informed of myself. By
26 being included on a conference call I found out that our former DFO

1 actually set up a subcontract with ICMA to do work on the subcommittee
2 initiative without our knowledge. So --

3 MS. SHEPARD: We think it's important, Rosa, to see the
4 substance of that subcontract because this is a project of a working
5 group of the Health and Research Subcommittee.

6 MS. PAYTON: Right. It's not that the subcommittee requested that,
7 if that's what you're asking. We feel exactly as you feel; the people that
8 we identify to become -- or, the resources that we identify to help to
9 develop the Decision Tree should be those made by the subcommittee.

10 MS. RAMOS: Really, I would pay to be plagiarized, to have all of
11 my work repeated.

12 MS. JARAMILLO: Rosa, what happened here --

13 MR. TURRENTINE: Let me just -- let's stop being polite.

14 MS. JARAMILLO: What happened here is that it got stolen from the
15 committee without us knowing.

16 MR. TURRENTINE: Yes, that's what I wanted to say. Let's stop
17 being polite and say what's happening.

18 MS. JARAMILLO: And we wanted to know why.

19 May I say something? You know, on the genome project, we have
20 a couple of people here -- I just wanted to inform the rest of the NEJAC
21 committee that we have a couple of people here that want to speak on
22 experiments that are being done in Black communities.

23 MS. SHEPARD: We really have to get through committee reports
24 and the full agenda before we add on another agenda item. Thank you.
25 Alberto.

26 MR. SALDAMANDO: Yes, thank you very much.

1 I'm going to take the liberty of making a comment and then going on
2 into the International Subcommittee report, if that's all right. We do have
3 a couple of action agenda items that we really would like to have
4 addressed by the NEJAC and I have an urgency about it.

5 With regard to the human genome project and other related genome
6 projects, our organization, the International Indian Treaty Council, has in
7 fact a great investment in it, including work with UNESCO on the
8 declaration on the genome. There's a lot of indigenous peoples that are
9 very interested in it. There's W. Harry, the Biodiversity Project, the
10 Indigenous Biodiversity Project. So that I would like to keep in touch with
11 the people that are doing this because I think there are a great many
12 aspects of the project that need to be examined.

13 With regard to the International Subcommittee report, there is one
14 item that I think is critical for your consideration and vote so that we can
15 refer it to the Administrator, and that is our recommendation with regard
16 to the Plan Columbia which is in writing. We would ask for a NEJAC vote
17 to send it to the Administrator as quickly as possible.

18 So, if you would be looking at that while I go through some other
19 aspects, a couple of other things of importance to us, we can come back
20 to it. Is that all right?

21 I think of major importance to us were the conversations we had
22 yesterday with the United States Trade Representative, Carmen Sur-
23 Bredie, Assistant U.S. Trade Representative for Policy Coordination
24 primarily, and Dominic Bianchi Acting Assistant Trade Representative for
25 Intergovernmental Affairs and Public Liaison, as well as a gentleman
26 from the State Department whose card I didn't get who apparently is

1 involved with -- oh, Mark Shelton the Development and Finance Officer.

2 It was a very informative meeting. We learned a great deal not only
3 with regard to the Trade Representative, but we learned a great deal
4 about how they do business and how they do business with FACAs.
5 There is one statutorily required FACA that is composed primarily of
6 industry -- or, all of industry, I should say. And there are some
7 discretionary FACAs, and then they also have for general policy matters,
8 and they have FACAs for particular trade items such as textiles, gasoline,
9 whatever items are the subject of international trade negotiations.

10 I think what's important for us is that we opened the door to some
11 communication. We do have a couple of items on the agenda on our
12 report that talk about -- with regard to the public participation, we were
13 also told that not only the Trade Representative with regard to trade
14 agreements, but the Department of State with regard to multilateral bank
15 loans on international projects are looking at environment impact
16 statements from affected communities.

17 So we're recommending that the United States Trade
18 Representative and the Department of State acknowledge the
19 environmental impact review as part of the trade agreement and
20 multilateral bank loan process, particularly the USTR, and should ensure
21 that potentially affected vulnerable communities have timely and effective
22 opportunities to intervene from the inception of the process as well as to
23 receive draft and final documents.

24 We also are requesting that EPA facilitate a follow-up and dialogue
25 by the NEJAC International Subcommittee with the United States Trade
26 Representative in the Department of State on issues of trade and

1 environmental justice.

2 We were trying to open the door. The door has been very closed for
3 a very long time. I think on the part of the Trade Representative
4 particularly, but also from the Department of State, we received a
5 generally favorable response.

6 I don't know if Haywood wants to comment. He moderated the
7 meeting for us, which I thought was important that they understand that
8 this is a NEJAC concern, not just an International Subcommittee
9 concern.

10 So we've begun a process. The people that we spoke to and we
11 hope to continue this process with are civil servants, high ranking civil
12 servants. So we were very encouraged that perhaps if allowed from this
13 end we may be able to start some substantive discussions with regard to
14 the participation of indigenous and minority communities with regard to
15 trade policy generally.

16 Haywood, would you like to add anything? Haywood, your presence
17 was really very much appreciated and I think it helped a great deal.

18 We have also this letter that we've written on behalf of NEJAC that
19 we're asking NEJAC to endorse and send to the Administrator. It's a
20 recommendation to the Administrator that certain actions be taken with
21 regard to information relating to the aerial spraying of illicit crops in the
22 country of Columbia.

23 All of the surrounding countries will be affected in many ways,
24 including the drift as well as refugees from trying to escape the damage
25 caused to the human body by such chemical agents. It will also affect
26 the livelihoods. It's just an incredible program.

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1 One would have thought that they would have learned their lesson
2 from Vietnam, that defoliation is not the way to go. But apparently,
3 according to documentation that was provided to us, as well as the
4 condemnations of indigenous organizations, particularly as it's going to
5 be particularly indigenous peoples that are going to be directly impacted
6 as they are the ones that live in the forest, who live in areas where such
7 things are done, are going to be affected.

8 The letter itself tries to explain why it's a bad thing, as I suppose it
9 should. So, you can take a look for yourselves.

10 One thing that I was surprised to find out, and gratified to find out,
11 is that the National Congress of American Indians, the lobbying arm of
12 251 recognized Tribes in the United States, has also issued a strong
13 condemnation of this. Solidarity within the indigenous peoples of
14 Columbia as well as other important indigenous groups worldwide.

15 So we would ask for your approval so that this emergency
16 recommendation can be sent immediately to the EPA Administrator
17 asking her to ensure that information is provided with regard to some of
18 these chemical agents and their effects, as well as a general policy
19 statement that this is an environmental justice concern, that these things
20 should not be done.

21 MS. SHEPARD: You're requesting our approval of this letter as an
22 emergency?

23 MR. SALDAMANDO: Right.

24 MS. SHEPARD: We need -- has everyone been able to read the
25 letter? If so, since it is an emergency, we can vote to approve it.

26 Would you like to put forward a motion?

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1 MR. SALDAMANDO: Yes, I'd like to move that NEJAC --

2 MS. JARAMILLO: I would second the motion.

3 MS. SHEPARD: Okay.

4 MR. TURRENTINE: Discussion?

5 MS. JARAMILLO: Can I comment on it?

6 MR. SALDAMANDO: Certainly.

7 MS. JARAMILLO: I think that the letter is a good one and the
8 request for information I think seems reasonable to me. I like the
9 background information you put into it.

10 Glyphosate was an active ingredient in Agent Orange, so if you can think
11 about that, what we did in Southeast Asia. This is practically the same
12 type of action. So I do strongly support the letter.

13 MR. SALDAMANDO: Thank you.

14 MS. SHEPARD: Is there further discussion? Tom? I'm sorry,
15 Damon, then Tom.

16 MR. WHITEHEAD: I don't have a problem sending the letter out,
17 but reading through it, it -- really, I'm not trying to prolong the discussion
18 or anything like that, and be supportive, but it needs to be wordsmithed,
19 is my first impression. And I don't know of any other way to state it other
20 than that, that in its current form I'm not sure I could be a hundred
21 percent -- I'm supportive of the idea, I just can't be supportive of this
22 unchange, I guess for lack of better words.

23 MR. SALDAMANDO: Well, I don't know if it would be worthwhile to
24 inquire, particularly with regard to whatever problem -- I mean, to ask you
25 for --

26 MS. JARAMILLO: I have a question.

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1 MR. SALDAMANDO: Give me some idea as to what the problem
2 is.

3 MR. WHITEHEAD: Like I said, I support the idea and I support the
4 -- and I don't think we have the time, unless Peggy -- unless the chair or
5 assistant chair has any other disagreement -- I don't know if we have time
6 to go through it, but all I'm saying is that -- from my first reading, and I
7 haven't gotten through the whole thing -- there's errors in it. If we send
8 something that's signed by this body, in the past, you know, in my
9 participation, I've wanted professional quality -- is my only point.

10 It's not that I disagree with it. I'm just saying that I think it should be
11 reflective of the quality of work product that we've in the past put forth.
12 It's very close; I'm just saying that there's -- on its face there need to be
13 some changes. Some edits, that's all I'm saying.

14 MS. SHEPARD: Well, I'm informed that if we approve this in
15 concept, that it can be worded over the next few days, that a copy can be
16 gotten out to the Executive Council but we can approve it by ballot.

17 MR. WHITEHEAD: That's fine. All I'm saying is -- I just want to
18 make that clear. If we're voting to send this letter right now, then I
19 couldn't say that. I'm saying, based on our -- you know, and this is my
20 last time -- but I'm saying previously the work product we've tried to put
21 forth has reflected a certain quality.

22 MR. SALDAMANDO: With all due respect, I would just as soon
23 have a vote on this and --

24 MS. SHEPARD: Annabelle would like to make a recommendation.

25 MS. JARAMILLO: My recommendation is that -- you know, I'm
26 staying over this evening and I'll be glad to do a little wordsmithing on it,

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1 if that's a concern to you, Damon. But we need to get this done within a
2 week. There's not any time to waste.

3 MR. WHITEHEAD: If it's in concept -- if we want to do it in concept,
4 we approve it, then that it be wordsmithed, then fine. I'm just saying if
5 we're saying this letter will be signed today and sent off, then that's
6 problematic. That's all I'm saying.

7 MR. TURRENTINE: Peggy, let me suggest -- and Damon is the
8 only one I've heard voice any unreadiness, and he has made it very clear
9 what his unreadiness is -- that if Damon would get with Annabelle and
10 Alberto to do the appropriate wordsmithing where you are then in
11 agreement that it's ready to go in terms of quality, then we as a body
12 wouldn't necessarily have to see it again, that we would give you all the
13 authority to go forward with the wordsmithing that you deem necessary,
14 Damon.

15 And I really appreciate your raising that point because I don't want
16 anything going out under my signature that has errors in it.

17 So, I mean, if we can agree in principle that the three of you would
18 get together, do the appropriate wordsmithing, then we can vote on the
19 content and the concept of the letter with the appropriate changes to be
20 made during wordsmithing.

21 MR. WHITEHEAD: Right. And we've done that in the past. That's
22 consistent with what we've done in the past. That's my only point.

23 MR. TURRENTINE: Okay.

24 MS. SHEPARD: Okay. So do we need to vote?

25 MR. LEE: Yes.

26 MS. SHEPARD: Okay. Could I have a motion, please, for a

1 recommendation?

2 PARTICIPANT: You already have one.

3 MS. SHEPARD: We have it on the floor.
4 (Simultaneous conversation.)

5 MR. LEE: You have it.

6 MS. SHEPARD: -- discussion.

7 MR. SALDAMANDO: I call for the question.

8 MS. SHEPARD: Call the question.

9 MR. LEE: Can we have a vote?

10 MS. SHEPARD: Okay. Everyone who approves the
11 recommendation?

12 (Show of hands.)

13 MS. SHEPARD: Any nays? Abstentions?

14 (No audible response.)

15 MS. SHEPARD: Okay, it's carried.

16 MR. SALDAMANDO: Well, thank you very much. I truly appreciate
17 that.

18 There were some other items of concern that I'd like to share with
19 the NEJAC that really kind of parallel the issues that we've been dealing
20 with today.

21 There's a couple of things with the Convention on the Elimination of
22 Racial Discrimination. We have a --

23 MR. TURRENTINE: Can I inquire?

24 MR. SALDAMANDO: Sure.

25 MR. TURRENTINE: A point of inquiry. The things that you're going
26 to cover right now, do they require Council action?

1 MR. SALDAMANDO: Well, I'm not sure because we don't have a
2 writing on it. No, but I would --

3 MR. TURRENTINE: Let me tell just tell you why I'm asking the
4 question.

5 MR. SALDAMANDO: Okay.

6 MR. TURRENTINE: Because we may well lose our quorum and we
7 have another subcommittee that has to report -- two subcommittees that
8 have to report and they may have some items that require Council action.

9 MR. SALDAMANDO: Okay.

10 MR. TURRENTINE: If we could do those items that require Council
11 and then we can come back to your discussion.

12 MR. SALDAMANDO: That's fine.

13 MS. SHEPARD: Rosa Hilda, are you reporting for Puerto Rico?

14 MS. RAMOS: Yes.

15 MS. SHEPARD: Okay.

16 PUERTO RICO SUBCOMMITTEE

17 MS. RAMOS: As you might not remember, this NEJAC success in
18 Puerto Rico could be used in other regions as an example to be followed,
19 is to organize a miniature NEJAC to deal with the region and with the
20 communities of Puerto Rico regarding their own particular problems.
21 That was done with the help of Marva King and Linda of the Office and
22 also with the help of Teresita Rodriguez from the Caribbean Field Office
23 and Jose Font from the Caribbean Field Office.

24 We finally had the first meeting, including the industry who were,
25 you know, like very surprised because this is the first time that the
26 industry, the state, the agencies meet at a table with affect communities

1 to discuss in a civilized manner their problems.

2 You know, we still have problems because many of the members
3 really do not understand what environmental justice, you know, truly
4 means. But I think we did a very good job for the first meeting.

5 We had a public hearing and 12 community people attended. And
6 from those presenters we organized five work group, but because of the
7 limitations in resources and the time constraints we decided to
8 concentrate our work regarding public participation because you have
9 seen how important it is to define clearly the path of what is the space of
10 what the communities must have into the decisionmaking processes.

11 We had a business meeting and we concentrated -- and I
12 recommend all of you, all of the community members, to look carefully
13 into the interpretation that each region has given to the environmental
14 justice policy. We're talking about the definition of what an abused
15 community, how poor it has to be, how big it has to be, to whom are we
16 going to compare it. Because those are the criteria that are going to be
17 used to deny a permit maybe. So, for the first time, like a case study,
18 this is becoming like very, very important, the most important.

19 Let me tell you, that guidance was developed by the region and
20 discussed with the community before going into the Federal Register.
21 But it's still under review by the communities.

22 MS. SHEPARD: Rosa Hilda, excuse me. I just want to ask if you
23 have any action items just before we get into discussion.

24 MS. RAMOS: Not for the Council.

25 MS. SHEPARD: Okay, because we're going to lose Haywood soon.
26 Does the Enforcement Subcommittee have action items?

Okay, then you can proceed, and then Alberto will continue.

MR. SALDAMANDO: I'll try and get through this quickly. The problem is that we're getting into issues and international matters that require some explanation.

One is the United States is a party to the convention on the elimination of all forms of racial discrimination. They recently issued their first report as to their compliance with the human rights obligations under that convention.

We intend to draft comments, a response to that report on environmental justice issues that generally are not covered at all in that report. We'll circulate it for polling and voting later on, as soon as we get the letter. That letter will be circulated to the NEJAC members and we hope to receive your feedback and send the comments directly to the committee on the elimination of all forms of racial discrimination. That is the body that monitors states' compliance with that convention.

I don't know if there are questions, but we'll be sending you a letter and hopefully you may be able to see it as important.

The other issue with regard to racial discrimination is the World Conference Against Racial Discrimination that is to take place in South Africa in September of next year. There are several issues there that I wish to report on.

The first issue is that I had begun a process, I thought, within NEJAC, within EPA, and the Office of International Activities so that NEJAC could itself send a delegation to that conference as well as participate in its preliminary meetings, or preparatory meetings.

I received an e-mail a couple of days ago -- or maybe a couple of

weeks ago; I don't remember now-- that informed me that as our function truly was to advise the Administrator, we would not accredit ourselves as a national institution.

I don't know if people want to get into that. My judgment is that -- I've been informed that the EPA feels very strongly about this -- or, at least I get the sense they do-- and although I feel, frankly, that under the international rules that NEJAC qualifies as a national institution for independent accreditation, that the struggle may be a bit too much within EPA and I really think we should pick our fights and that's not a real high priority with me.

However, I would be very happy to share why I think the NEJAC could in fact accredit itself independently and attend and participate at the World Conference Against Racism in South Africa.

That's the information item.

We have passed out to you the U.S. position with regard to the draft declaration and program of action under the guise of environmental justice, the U.S. contribution to -- or, their proposals that will be made and has been made to the drafting committees for the World Conference on Racism declaration and program of action.

Frankly, that's been a difficult issue for us as well. I honestly don't know who wrote it. I suspect it was the State Department, but sometimes I don't know. What they have done is essentially adopted some very Americentric or what the United States feels is an adequate description and response to environmental justice, and not what affected communities would consider and effective response to environmental injustice internationally -- not just nationally, but internationally.

There's a great many issues that the letter doesn't raise, and a great many issues that are raised wrongfully. I think we discussed one earlier, which is a definition of stakeholder. Well, internationally, stakeholder is not concept; the concept is civil society. And civil society does not normally include the perpetrators of pollution.

And that's a large element of -- that's part of the confusion, I think, with this draft. There is no definition of environmental justice that is appropriate internationally. When you take a look at states like Bolivia and Guatemala, or African states, the concept of disproportionate is not appropriate. Disproportionate impact on minority communities is not appropriate in countries where the vast majority of people are -- in fact, the majority.

I think that one of the contributions NEJAC could have made to this World Conference is to offer a more significant or a definition that deals better with the concept of environmental justice internationally. For one, we have suggested, as we suggested to the U.S. Trade Representative, that if one looks at the race and the social or economic standing of the polluter, and examines the race and economic standing of the victim, you get a much better idea of what environmental justice is internationally.

And so, American concepts may not be adequate to really address what environmental justice is internationally.

Also, this whole concept of stakeholders really upsets me because you don't talk about Hitler being a stakeholder, you know, in the genocide. You know? You don't talk about the polluter having a stake in the outcome of pollution as much as affected local communities that are probably marginalized and poor and probably socially marginalized

and poor as well as being of a different color than the polluter.

So those are the kinds of problems. I don't know how to do this. I will try to do a draft of a response that may more adequately reflect I think what people internationally are talking about with regard to environmental justice and exploring and try and also to send that to people, if I can get it done, along with our comments to the third report, again, to do some polling.

Finally, there are a couple of specific issues that we consider-- they have a "c" on them. I forget what that means, but it's important.

One is a recommendation that was referred to us by the Chair with regard to translations by members of the Interagency Working Group. Particularly, the complaint that we received was with regard to the Air Force and with regard to the Department of Energy that are apparently not sensitive to the language needs of a community when they have hearings on issues.

And so we're making a recommendation to the interagency task force that they make their membership a bit more sensitive to the needs -- I mean, if a person shows up and doesn't speak English and there's no translation services, there's very little opportunity for them to participate. I think that issue has been covered by NEPA generally under law. Maybe they would be more sensitive to those particular needs. Interestingly enough, the complaint was raised on the issue of Polish-speaking people as well as Spanish-speaking people.

Finally, we're making a recommendation again with regard to the EPA memo concerning the statutory authority under which environmental justice issues may be addressed. One of the most serious problems

1 under permitting, and one of the most serious problems we see, really,
2 with regard to pesticides in FIFRA, is the permitting process.

3 We would like to see them address FIFRA and other matters related
4 to pesticides and farmworker safety in that guide, as well as what they've
5 got there. I think that that is an urgent need on the part of an already
6 recognized and marginalized -- a recognized community that is suffering
7 a disproportionate impact from pesticides. Not only farmworkers, but
8 their families.

9 So we would hope that that memo could address the issue of
10 environment justice and pesticides.

11 There's a lot of other issues that we addressed. Hopefully you can
12 take a look at the report and feel free to write or ask questions if required.

13 MS. SHEPARD: Thank you. Just a quick comment. I think
14 probably most of you were on a list from Bob Bullard -- and he sent
15 around an e-mail that came from the MIT Environmental Policy Institute
16 where they had developed their own definition of environmental justice for
17 international use. I believe I saw your name on that e-mail. Did you see
18 that? Did anyone else here get that?

19 MR. SALDAMANDO: Who as it from?

20 MS. SHEPARD: MIT. Something called an Environmental Policy
21 Institute. I just know that I had gotten a call from them. They were going
22 through Bob's people of color directory and just arbitrarily calling
23 community groups to see -- apparently they were going to apply for a
24 grant -- to see if, you know, we wanted technical assistance from them.
25 It was a very bizarre phone call.

26 And then I got an e-mail saying that they had developed their own

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1 definition of environmental justice.

2 MR. SALDAMANDO: Well, if I saw it, I would have had the same
3 reaction you did. But I do think it's necessary to be thinking about those
4 things because international trade is creating the same kinds of
5 conditions -- has created -- I mean, U.S. communities are not the first
6 communities to feel that. I really think we could contribute a great deal
7 to the international discussion of environmental racism.

8 MS. SHEPARD: Okay. Well, I hope your committee will take the
9 lead on that.

10 Rosa, I'm just going to ask the Enforcement Subcommittee to go
11 because they have three very quick action items.

12 MS. RAMOS: Yes.

13 MS. SHEPARD: Savi.

14 ENFORCEMENT SUBCOMMITTEE

15 MS. HORNE: Savi Horne. I just want to report out the action items
16 while Haywood is still in the room.

17 We had a presentation by Marc Brenman who is the Senior Policy
18 Advisor, Office of Civil Rights, Department of Transportation, and we
19 requested of him his informal guidance about investigating EJ filed under
20 Title VI.

21 Also, we had conversations on the SEP and we are requesting that
22 the staff for the EPA convene a meeting of eight to ten community-based
23 organizations that have experience in administering a SEP to look at the
24 problems and obstacles. But it is hoped that we would get a working
25 document, such as developed in a cookbook, so that community-based
26 organizations need not repeat errors and are able to be more effective in

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1 administering the SEPs.

2 We also asked of Steve Herman to provide us with a copy of
3 paperwork, including pleadings, complaints, challenge in air pollution
4 from concentrated animal feedlot operations in Missouri, North Carolina
5 and Indiana. We think this is very important at this time. The National
6 River Keepers, which is an organization headed up by Robert F.
7 Kennedy, Jr., is about to file a series of lawsuits across the country
8 challenging CAFOs, and so we therefore thought it was very important to
9 look at what EPA has in terms of documents on air pollution.

10 Those are the action items. I would like to just continue just in very,
11 very brief form to just summarize the deliberations of the Enforcement
12 Subcommittee.

13 In keeping with the interagency theme, we had a series of people
14 coming in from the Department of Justice, HUD, and DOT talking about
15 implementation of Title VI within their agency.

16 Of the conversations what we gathered was that in HUD there was
17 no policy to dismiss Title VI complaints due to untimeliness, and we're
18 therefore recommending to OCR that they adopt that policy.

19 We also found that there were 5,000 to 6,000 complaints in HUD
20 and in their investigation they have assigned over 600 investigators,
21 which is like a ten to one ratio, to look at these complaints. Meanwhile,
22 at EPA, OCR only has two investigators and over 100 complaints.

23 When we spoke with Jasmin Yorker from the Office of Civil Rights,
24 she said none of the complaints have been resolved and there's 60
25 pending. She also said that there were no specific timeline that she
26 could give us on the guidance.

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1 I think Luke has done a superb job in bringing forth some of the
2 major concerns facing the Enforcement Subcommittee. I need not repeat
3 those. I think it's quite evident that as a NEJAC, that the composition
4 and leadership should be at the top of your list of concerns.

5 So, with that I'm going to ask for just about a minute to allow a
6 member of our subcommittee to just bring up a concern that we were
7 particularly interested in in the subcommittee. I think it will probably be
8 referred over to Marinelle.

9 This is Delbert DuBois.

10 MS. SHEPARD: I'm not --

11 MS. HORNE: You're not going to do that?

12 MS. SHEPARD: (Inaudible.)

13 MS. HORNE: We had consulted with Luke and he basically said
14 that it was a prerogative of the Chair of the Enforcement Subcommittee
15 to allow this. He had missed his opportunity --

16 MR. LEE: Peggy, it's not a problem.

17 MS. HORNE: -- his opportunity to do a public comment, so if it's
18 okay with the Council.

19 MR. DUBOIS: I'll make this really quick, actually. What I have,
20 actually, I want to have added to the documentation. I have a brochure
21 of the Racial and Ethnic Approach to Community Health Reach 2000
22 Program, and also a taped conversation of a PI at the Medical University.
23 This subject actually -- I'm just going to read this letter.

24 "Ethnic cleansing, or genocide, synergism, Charleston, South
25 Carolina." And the subject of this paper is to request support and action
26 of the NEJAC. "The EJ movement in Charleston, South Carolina has

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1 many hurdles and obstacles in the form of agencies and facilities that are
2 supposed to aid citizens. Federal dollars are being utilized against
3 citizens in the form of research.

4 "The information following will give evidence to how the African-
5 American community will be adversely impacted by federal programs that
6 are put in place by opportunists, outside influence with personal gain
7 motives.

8 "As the community organizers of Charleston, South Carolina, we
9 have collected data that provides the following:

10 "African-Americans are being utilized in research programs without
11 their knowledge. Data collected is being manipulated to receive funding
12 for African-Americans without their knowledge. False information and
13 data is being given to the African-American community to solicit their
14 support in programs to gain federal funding."

15 Thank you. I have a letter that goes more extensively into that
16 situation, and this actually just ties into that. The theme of this was
17 research. What it is is that when you bring these facilities together -- we
18 already are fighting against entities singly; you're multiplying our enemy.

19 MS. HORNE: Are you through?

20 MR. DUBOIS: Yes.

21 MS. HORNE: Okay, I think that we're through, and I thank you for
22 the opportunity to give Mr. DuBois a brief minute.

23 MS. SHEPARD: Thank you. Are there any comments on the
24 report?

25 (No audible response.)

26 MS. SHEPARD: Okay, Rosa Hilda, did you want to finish your

1 report?

2 MR. GOLDTOOTH: I have a point to make.

3 MS. SHEPARD: Tom.

4 MR. GOLDTOOTH: I think Rose was first. I'll let Rose go first.

5 MS. AUGUSTINE: Based on that letter that this gentleman just
6 started reading, I would like to have a copy of that given to the Health and
7 Research Subcommittee. I think that we need to explore. We're talking
8 about a lot of research. We have to be very careful because in the past
9 the research that has been done has been done -- I think we have to be
10 very careful about this so that it does not backfire and experiments are
11 conducted in our communities.

12 It seems like we have identified a lot of issues here that -- the
13 genome and this research. We have to be very careful, and I think that
14 we need to look at that very extensively.

15 MS. SHEPARD: I agree, Rose, which is why I think that we should
16 probably have some presentations, at least in our subcommittee, around
17 IRBs and around informed consent and what that really means.

18 MS. AUGUSTINE: And I think that we really need to have more
19 community participation giving these kinds of presentations so that we
20 know what is happening in the community.

21 I've been very, very leery about it because of all the experiments
22 that have been conducted in our communities and on our children. So
23 I would like to see more community come out and give presentations on
24 what they are experiencing.

25 MS. SHEPARD: Well, I hope that Delbert will submit that as
26 perhaps testimony through the public hearing session so that it gets

1 responded to.

2 Tom.

3 MR. GOLDTOOTH: Yes. A couple of comments.

4 Can we go back to a couple of comments and previous reports? Is
5 that where we're at? Then we're going to --

6 MS. SHEPARD: We're only there is Rosa Hilda has no report, and
7 you do have a report

8 MR. GOLDTOOTH: Okay.

9 MS. SHEPARD: Okay?

10 MR. GOLDTOOTH: Well, one of my comments in reference to the
11 latest presentation is that I'm not aware if we brought this up before in
12 previous NEJAC meetings, whether that's come out of Health and
13 Research Subcommittee, but definitely under environmental justice
14 there's a need for protocols to be established around research.

15 There are protocols definitely that are out there that guide research
16 in many different venues, but specifically a protocol concerning our
17 people of color and native communities I think needs to be addressed.
18 Those are guides for people doing research in our communities.

19 The other point I wanted to make in reference to the International
20 Subcommittee, their presentations were excellent, the recommendations
21 were good.

22 I brought up an issue that I was hoping -- I'd like to recommend that
23 the subcommittee address this issue in one of their future conference
24 calls. It concerns applying the Executive Order within the international
25 affairs offices of the federal agencies.

26 An example of this, again, was the recent POPs treaty that I

1 attended in Johannesburg where the State Department and EPA were
2 very active in these negotiations. We were wondering on how
3 environmental justice applies to those representatives of the federal
4 agencies that participate on an international level and if the Executive
5 Order is applicable to international deliberations that the State
6 Department is involved with.

7 I do think that it should be researched out and I do recommend it
8 should be applicable.

9 MR. SALDAMANDO: Just briefly, Tom, we haven't thoroughly
10 researched it out, frankly, but a literal reading of the Executive Order
11 leaves the Department of State out of the Executive Order, as well as the
12 Trade Representative. So they're not included in the -- the Department
13 of State is not included.

14 I think one of the things that we're happy about is that even though
15 they're not included on that particular Executive Order, they did come to
16 our meeting and they have left the door open for further discussions.

17 There's another aspect to your question, and that is that the EPA,
18 I assume -- at least, as far as I know -- is subject to the Executive Order.
19 And EPA input to those conventions should be examined in that light.

20 MR. GOLDTOOTH: Maybe that's something you can address to
21 your DFO to see if someone in the International Affairs Office of EPA
22 could respond to that question.

23 MS. HORNE: I'm just adding something to what Tom had requested
24 earlier, the breakdown that he asked Charles for dealing with the Alaska
25 Natives and American Indians be also done by grade so this way we
26 could do an assessment of their decisionmaking placement within the

1 agency as well.

2 MR. LEE: Yes, I heard. Thank you.

3 MS. SHEPARD: If there are no other comments by the Council,
4 Charles Lee would like to make closing comments.

5 CLOSING COMMENTS

6 MR. LEE: Okay. Actually, all I wanted to say was to thank each of
7 the members of the Council for all your hard work over the last four days.
8 I think this has been a really productive, if somewhat tumultuous,
9 meeting. I'm pretty pleased with it. So I want to thank everyone for their
10 work both in terms of the meeting itself and everything that led up to the
11 meeting.

12 It is important I think that we recognize, in addition to you, those
13 members of the OEJ and EPA staff and the contractors who've really
14 done a lot of the support work. So I just wanted to -- you know, we're
15 recognizing people mainly for the record, but I think it is important.

16 I don't know how many of the EPA environmental justice
17 coordinators are still here and the environmental justice staff in the other
18 offices. As you know, they do a lot of the ongoing work. So, those of you
19 who are still here, if you would stand up to be recognized, we could do
20 that.

21 (Applause.)

22 MR. GOLDTOOTH: Charles, how about other federal agencies?

23 MR. LEE: That's right. There's at least one person from another
24 federal agency, Jessica Alcom.

25 (Applause.)

26 MR. LEE: And then the Office of Environmental Justice staff, many

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1 of whom have left, but you know Marva is always going to be here.

2 And then I wanted to really point out one person -- I asked her to
3 stay -- Cristina Miranda is an eco-intern with the Office of Environmental
4 Justice. She does a lot of work, but I think in addition to Linda Smith and
5 to Marva King, she probably is a third person who supports most of the
6 activities for the NEJAC.

7 You know, when you were all meeting in here, she was
8 singlehandedly outside taking care of the FedEx boxes as the work was
9 going on. These are things she takes on -- these, and many, many other
10 things she takes on of her own accord.

11 I know Cristina herself is a real passionate champion of
12 environmental justice. She is there in the office to remind us of a lot of
13 issues, including things like diversity and other kinds of -- the fact that the
14 office needs to have better diversity of staff, other issues.

15 So I just want to make sure that we all recognize her. She is going
16 to be leaving us -- in fact, I think this is going to be her last NEJAC
17 meeting. So, Cristina, can you stand?

18 (Applause.)

19 MR. LEE: Actually, last week was her birthday.

20 And I think that should pretty much do it for everyone.

21 Oh, lastly, the contractors. You know that TetraTech has been
22 around here doing all our hard work.

23 (Applause.)

24 MR. LEE: Victoria is not here, right, Jen? Is Victoria here right
25 now?

26 PARTICIPANT: She's downstairs.

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1 MR. LEE: Right. Right. Well, in any event, you know Victoria
2 Robinson and everyone else on the TetraTech staff who do the support
3 work for the NEJAC meeting. So if you could all stand.

4 (Applause.)

5 MR. GOLDTOOTH: Charles.

6 MR. LEE: Yes.

7 MR. GOLDTOOTH: The notetaker is a separate contractor, I think.

8 MR. LEE: That's right. And the notetaker, if you could stand.

9 (Applause.)

10 MR. LEE: Great. Okay, I think that's it. So, thank you very much
11 and I'll turn it back to you, Peggy.

12 MS. SHEPARD: Just one comment. I had hoped we could talk
13 about revising the public hearing format today, but if you all could think
14 about that, and those of you who will be on the Protocol Committee call,
15 I would like to place that as an agenda item. I think we all feel that that
16 needs some reform. So I hope you all think about that.

17 Thanks, everybody, and I look forward to working with you in the
18 coming year. Have a happy holiday, everybody.

19 And I guess we need a motion for adjournment.

20 PARTICIPANT: So moved.

21 MS. SHEPARD: Everyone in agreement. Okay.

22 (Whereupon, the meeting in the above-entitled matter was
23 adjourned.)

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