

EXECUTIVE SUMMARY

INTRODUCTION

This executive summary provides highlights of the fifteenth meeting of the National Environmental Justice Advisory Council (NEJAC), held May 23 through 26, 2000 at the Omni Hotel at CNN Center in Atlanta, Georgia. Each of the six subcommittees met for a full day on May 25, 2000. In addition, on May 23, 2000, members of the NEJAC participated in a fact-finding tour of several communities in Anniston, Alabama to learn about environmental issues and concerns of importance to those communities. The NEJAC hosted on May 23 a public comment period for general environmental justice issues. The NEJAC also hosted on May 24 a second public comment period which focused on community environmental health and environmental justice issues. Approximately 536 persons attended the meetings and the public comment periods.

The NEJAC is a Federal advisory committee that was established by charter on September 30, 1993 to provide independent advice, consultation, and recommendations to the Administrator of the U.S. Environmental Protection Agency (EPA) on matters related to environmental justice. Mr. Haywood Turrentine, Laborers' District Council Education and Training Trust Fund (an affiliate of the Laborers' International Union of North America), serves as the chair of the Executive Council. Ms. Peggy Shepard, Executive Director, West Harlem Environmental Action Inc. and member of the Health and Research Subcommittee, serves as the newly appointed vice-chair of the Executive Council of the NEJAC. Mr. Charles Lee, Associate Director for Policy and Interagency Liaison, EPA Office of Environmental Justice (OEJ), serves as the Designated Federal Official (DFO) for the Executive Council. Exhibit ES-1 lists the chair and DFO of the executive council, as well as the persons who chair the six subcommittees of the NEJAC and the EPA staff appointed to serve as the DFOs for the subcommittees.

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

Exhibit ES-1

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL CHAIRS AND DESIGNATED FEDERAL OFFICIALS

Executive Council:

Mr. Haywood Turrentine, **Chair**
Ms. Peggy Shepard, **Vice-Chair**
Mr. Charles Lee, **Designated Federal
Official (DFO)**

Air and Water Subcommittee:

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

Enforcement Subcommittee:

Mr. Luke Cole, **Chair**
Ms. Savonala Horne, **Vice-Chair**
Ms. Shirley Pate, **DFO**
Mr. Robert Banks, **Alternate DFO**

Health and Research Subcommittee:

Dr. Marinelle Payton, **Chair**
Ms. Rose Marie Augustine, **Vice-Chair**
Mr. Lawrence Martin, **co-DFO**
Mr. Chen Wen, **co-DFO**

Indigenous Peoples Subcommittee:

Mr. Tom Goldtooth, **Chair**
Ms. Jennifer Hill-Kelley, **Vice-Chair**
Mr. Daniel Gogal, **DFO**
Mr. Robert Smith, **Alternate DFO**

International Subcommittee:

Mr. Arnoldo Garcia, **Chair**
Mr. Alberto Saldamando, **Vice-Chair**
Ms. Wendy Graham, **DFO**

Waste and Facility Siting Subcommittee:

Ms. Vernice Miller-Travis, **Chair**
Ms. Veronica Eady, **Vice-Chair**

REMARKS

Ms. Sylvia Lowrance, Principal Deputy Assistant Administrator, EPA Office of Enforcement and Compliance Assurance (OECA), noted that the meeting marked a “tremendously important milestone” in the progress of the NEJAC and its work with EPA. To address public health problems in communities, Ms. Lowrance explained, it is essential to have better science with regard to those health and environmental problems that face communities. She noted that there has been a void in addressing such issues and that the missing link has been health research. She then expressed her excitement about the program that the NEJAC would be focusing on during the meeting and made a commitment that EPA would follow-up on the work accomplished by the NEJAC during the meeting.

Mr. John Hankinson, Deputy Regional Administrator, EPA Region 4, reported that in 1996, EPA Region 4 had been reorganized dramatically to better serve communities that have environmental justice concerns. Mr. Hankinson stressed that the reorganization had been designed not only to serve such communities better, but also to improve the manner by which the region conducts its daily activities related to environmental justice. In other words, he clarified, the reorganization is structured to ensure that concerns related to environmental justice become integrated into all activities and across all media programs. He expressed agreement with Ms. Lowrance that it is extremely important to have the best science possible upon which to base judgements related to the environmental health of a community. Concluding his remarks, Mr. Hankinson stressed the necessity that EPA work with other agencies and other programs that not only focus on environmental issues, but also deal with all issues that must be addressed if communities are to be healthy.

Mr. Barry Hill, Director, EPA OEJ, began his presentation by welcoming all participants to the meeting of the NEJAC on public health, noting that it was appropriate that the meeting be held in Atlanta, Georgia, the home of the U.S. Department of Health and Human Services’ (HHS) Centers for Disease Control and Prevention (CDCP) and the Agency for Toxic Substances and Disease Registry (ATSDR). Mr. Hill then placed the meeting in perspective by reminding the participants that the mission of EPA is to protect human health and to safeguard the natural environment -- the air, water, and land upon which all life depends. Therefore, he declared, the issue of protecting the public health is of great importance to the Agency. Mr. Hill commented that, while the Agency has made great strides in safeguarding the natural environment, EPA has not been as successful in protecting human health. That is why, he explained, the EPA Administrator, through OEJ, had requested that the NEJAC focus a meeting on the issue of public health. The Agency, he emphasized, is seeking the advice and recommendations of the NEJAC, a multi-stakeholder advisory committee, on how better to address issues related to public health.

Continuing, Mr. Hill explained that the underlying question the panelists and the members of the NEJAC should address is whether there is a direct correlation between impacts on the environment and public health. Many people would agree that a direct correlation exists, he noted; adding however, that when asked to demonstrate the connection, communities, scientists, and public health officials are unable to do so because the science does not yet exist. Mr. Hill then provided a list of questions related to demonstrating the direct correlation between the environment and public health that were to be posed over the course of the meeting:

- If not now, when will sound science be available?
- Are [government agencies] making great strides in that direction?
- How far do [government agencies] have to go to satisfy not only the scientists and public health officials, but also the concerned public?
- What must Federal, state, and local government agencies do to focus their attention and considerable resources on demonstrating the direct correlation?
- How can communities become more involved in demonstrating the direct correlation by developing and using community-based health research models?
- How can industry be of assistance in using its considerable resources to participate in the dialogue of demonstrating the direct correlation?

Mr. Michael McCabe, Deputy Administrator of EPA, expressed his appreciation to Mr. Turrentine for his leadership of the NEJAC and to the members of the Executive Council for the time and effort they spend on important issues related to environmental justice. Mr. McCabe then noted that the NEJAC had been providing crucial and important advice to the EPA Administrator for the past seven years and has had a direct effect on many of the Agency's initiatives, such as its Brownfields Economic Redevelopment Initiative. Mr. McCabe stated that he now would request that the NEJAC provide help and guidance related to the role of risk assessments and the cumulative effects of environmental contamination on communities.

Continuing, Mr. McCabe updated the members of the Executive Council on several activities at EPA related to environmental justice. He announced that EPA's Office of Civil Rights (OCR) soon was to release two new draft guidance documents to clarify for government agencies and the public the compliance requirements set forth under Title VI of the Civil Rights Act of 1964 (Title VI). He then announced the Integrated Federal Interagency Environmental Justice Action Agenda developed by the Interagency Work Group on Environmental Justice. Mr. McCabe explained that the goal of the action agenda is to bring together the resources of 11 of the 17 Federal agencies called upon in Executive Order 12898 on Environmental Justice to help environmentally and economically distressed communities.

Continuing his remarks, Mr. McCabe explained that, under the leadership of the EPA Administrator, the Agency had been and would continue to be guided by the vision of a new partnership – economic prosperity and protection. Mr. McCabe expressed the Agency's belief that economic expansion and environmental protection are goals that must be achieved together. Experience, he noted, has demonstrated that an investment in the environment is an investment in job creation and in raising healthy children. Over the past seven years, he emphasized, EPA has been guided by the belief that principles of environmental justice must be rooted in the understanding that all people share the planet and all share the future; therefore, all must share the responsibility of environmental protection.

PANELS ON ENVIRONMENTAL JUSTICE AND DISCUSSION OF THE COMMUNITY-BASED ENVIRONMENTAL HEALTH MODEL

In its continuing effort to provide independent advice to the EPA Administrator in areas related to environmental justice, the NEJAC focused its fifteenth meeting on a specific policy issue -- environmental justice and its relationship to community-based environmental health research. On Wednesday, May 24, 2000, the members of the NEJAC received a series of presentations from panels comprised of representatives of various stakeholder groups. The presentations were designed to provide insight into the issues raised and concerns expressed about the relationship of environmental justice and public health. Exhibit ES-2 identifies the individuals who participated in the panel discussions.

Mr. Lee began the panel presentations by introducing members of EPA's Science Advisory Board (SAB) and Children's Health Protection Advisory Committee (CHPAC), who had been invited to participate in the meeting of the NEJAC. Members representing the SAB were Mr. Henry Anderson, Wisconsin Division of Public Health and Mr. Hilary Inyang, Center for Environmental Engineering Science and Technology, University of Massachusetts, Lowell. Members representing CHPAC were Ms. Willa Fisher, Bremerton-Kitsap County, Washington State Health District and Rabbi Dan Swartz, Children's Environmental Health Network.

The panel presentations included:

- ▶ *Panel 1: Overview: To what extent might an integrated community-based public health model that includes assessment, intervention, and prevention contribute to disease prevention and health improvement in environmental justice communities?*— This panel provided a historical overview of health issues found in communities that have environmental justice concerns and how a holistic integrated view of disease prevention and health improvement has evolved.

**PANEL PRESENTATIONS ON ENVIRONMENTAL JUSTICE
AND DISCUSSION OF THE COMMUNITY-BASED ENVIRONMENTAL HEALTH MODEL**

The fifteenth meeting of the National Environmental Justice Advisory Council focused on Federal efforts to secure disease prevention and health improvement in communities in which there are health disparities that may be the result of, or be exacerbated by, disproportionate effects of environmental pollutants and certain socioeconomic and cultural factors. During the meeting, the members of the National Environmental Justice Advisory Committee (NEJAC) received comments and information related to environmental justice and public health from the individuals identified below.

Panel 1 – Overview

To what extent might an integrated community-based public health model that includes assessment, intervention, and prevention contribute to disease prevention and health improvement in environmental justice communities?

Robert Bullard, Ph.D.	Environmental Justice Resource Center, Clark Atlanta University, Atlanta, Georgia
Richard Moore	Southwest Network for Environmental and Economic Justice, Albuquerque, New Mexico
Patrick Kinney, Ph.D.	Columbia University School of Public Health, New York, New York

Panel 2 – Lessons from the Field

What strategies and areas of research should be pursued to achieve more effective, integrated community-based health assessment, intervention, and prevention efforts?

Ray Campion	Mickey Leland National Urban Air Toxics Research Center, Houston, Texas
David Carpenter, M.D.	University of Albany School of Public Health, Rensselaer, New York
Katsi Cook	Akwesasne Mohawk Nation, Berkshire, New York
Carlos Porras	Communities for a Better Environment, Huntington Park, California

Panel 3 – Socioeconomic Vulnerability

How can consideration of socioeconomic status and cultural factors (a) contribute to a better understanding of health disparities and cumulative and disproportionate environmental effects; and (b) be incorporated into community health assessments?

Michael Callahan	U.S. Environmental Protection Agency (EPA), Cumulative Risk Technical Review Panel, Washington, D.C.
Walter Handy, Ph.D.	Cincinnati Health Department, Cincinnati, Ohio
Samara Swanston, J.D.	Greenpoint-Williamsburg Watch Project, Brooklyn, New York

Panel 4 – Key Federal Initiatives

What strategies should be developed, implemented, and evaluated so as to insure substantial participation, integration, and collaboration by Federal agencies, in partnership with impacted communities; public health, medical and environmental professionals; academic institutions; philanthropic organizations; state, tribal, and local governments; and the private sector?

Henry Falk, M.D.	Agency for Toxic Substances and Disease Registry, Atlanta, Georgia
Jon Kerner, Ph.D.	National Cancer Institute, Rockville, Maryland
Michael Rathsam	Indian Health Services, Manlius, New York
Michael Sage	National Center for Environmental Health, Atlanta, Georgia
Charles Wells	National Institute of Environmental Health Sciences, Atlanta, Georgia
Harold Zenick	EPA Office of Research and Development, Research Triangle Park, North Carolina

- ▶ *Panel 2: Lessons from the field: what strategies and areas of research should be pursued to achieve more effective, integrated community-based health assessment, intervention, and prevention efforts?*— This panel of community-based practitioners presented recommendations based on their experience of the strategies and targeted research that would most effectively advance at this time an integrated community-based health assessment, intervention, and prevention model.
- ▶ *Panel 3: Socioeconomic vulnerability: how can consideration of socioeconomic status and cultural factors: (a) contribute to a better understanding of health disparities and cumulative and disproportionate environmental effects; and (b) be incorporated into community health assessments?*— Members of the panel explored the extent to which socioeconomic vulnerabilities might be incorporated into community health assessments for populations already suffering health disparities. In addition, members of the panel offered recommendations about research priorities for the development of policy in areas of socioeconomic vulnerability, cumulative risk, and disproportionate environmental effects.
- ▶ *Panel 4: Key Federal initiatives: what strategies should be developed, implemented, and evaluated so as to insure substantial participation, integration and collaboration by Federal agencies, in partnership with impacted communities; public health, medical and environmental professionals; academic institutions; philanthropic organizations; state, tribal and local governments; and the private sector?*— Senior officials from EPA and other Federal public health agencies offered perspectives and provided overviews of their respective agencies' efforts to address environmental justice and community-based public health needs.

PRESENTATIONS

The Executive Council also heard presentations by the following individuals:

- ▶ Ms. Ann Goode, Director, EPA OCR, updated the members of the Executive Council on the status of the *Title VI Interim Guidance for Investigating Administrative Complaints Which Challenge Permitting Decisions* (interim guidance). She announced that EPA soon would publish in the Federal Register two new draft guidance documents related to Title VI for public comment review.
- ▶ Mr. Alan Hecht, Principal Deputy Assistant Administrator, EPA Office of International Activities (OIA), offered a brief overview of issues related to the U.S.-Mexico border to be addressed in the next year. He also provided an update on activities related to addressing recommendations from the Roundtable on Environmental Justice on the U.S./Mexico Border held in National City, California in August 1999.
- ▶ Mr. William Muszynski, Deputy Regional Administrator, EPA Region 2, provided an update on the efforts of EPA Region 2 to improve and protect the environment in Puerto Rico. Mr. Muszynski announced that the creation of a new NEJAC subcommittee on Puerto Rico had been approved by the EPA Administrator.
- ▶ Ms. Marla Hendriksson, Special Assistant to the Director of the Office of Human Resources, EPA Office of Administration and Resources Management (OARM) reported on Executive Order 13125 on Asian Americans and Pacific Islanders and the White House initiative on those populations. She explained that the order had been issued in an effort to improve the quality of life of Asian Americans and Pacific Islanders in this country through increased participation in Federal programs.

OTHER ACTIVITIES OF THE NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

On May 23, 2000, members of the NEJAC participated in a fact-finding tour of several communities in Anniston, Alabama. Such fact-finding tours provide members of the NEJAC information about the environmental concerns of local communities in the areas in which meetings of the NEJAC are held. In Anniston, the fact-finding tour focused on community health issues associated with contamination of soil with polychlorinated biphenyls (PCB) caused by local industry.

On May 25, 2000, the members of the Health and Research and Waste and Facility Siting subcommittees of the NEJAC participated in a joint session to discuss the investigation conducted by ATSDR in November 1999

of exposure to hazardous pollutants in Mossville, Calcasieu Parish, Louisiana. The Air and Water and Waste and Facility Siting subcommittees also held a joint session on May 25, 2000, to discuss EPA's draft guidance on toxic loadings reduction.

In the weeks before the May 2000 meeting of the NEJAC, EPA hosted delegates representing the South African environmental justice community to an intensive program conducted in the southeastern United States. The delegates from South Africa also participated in the meeting of the International Subcommittee of the NEJAC held on May 25, 2000.

PUBLIC COMMENT PERIODS

The NEJAC hosted public comment periods on May 23 and 24, 2000. More than 60 people participated in the two public comment periods. Significant concerns expressed during the public comment periods included:

- ▶ Many commenters continued to request that the NEJAC establish a work group to address environmental justice issues faced by communities located near Federal facilities. Commenters expressed concern about the lack of enforcement of environmental laws and regulations by Federal agencies.
- ▶ Several commenters questioned the length of time taken and the amount of analysis conducted by Federal agencies before a health issue is acknowledged. In addition, commenters expressed concern about the lack of interim measures taken by Federal agencies to address those health effects on communities.
- ▶ Several commenters continued to express concern about the lack of enforcement of Title VI related to the siting of facilities. Commenters recommended that EPA examine issues related to Title VI to prevent discrimination related to health disparities in minority and low-income communities.
- ▶ Several commenters requested that Federal agencies improve funding and other resources allocated to communities that are adversely effected by contamination. Commenters recommended that Federal agencies increase their involvement with communities to establish partnerships. In addition, several commenters urged that EPA reestablish the Community/University Partnership grant program.
- ▶ Several commenters also recommended that Federal agencies collaborate and coordinate efforts to ensure that public health issues related to communities adversely effected by environmental contamination are addressed. Commenters also requested that Federal agencies provide training to medical professionals on the health effects of environmental contamination, particularly from pesticides. Commenters also expressed concern about the lack of access to health care.
- ▶ Many commenters expressed serious concern about the continued exposure of migrant farm workers to pesticides. Commenters suggested that research on pesticides and exposure to pesticides has been insufficient and requested that EPA examine the process by which pesticides are registered, as well as research into alternatives to reduce the nation's dependence on pesticides, especially methly bromide.

COMMON THEMES

During the meetings of the Executive Council and its subcommittees, the members of the NEJAC discussed a wide range of issues related to environmental justice. Specific concerns of and commitments made by the NEJAC are outlined below. Members:

- ▶ Expressed concern about the apparent lack of involvement by many Federal agencies to address issues related to environmental justice as required by Executive Order 12898 on Environmental Justice.
- ▶ Questioned the apparent disregard by Federal agencies of community input related to addressing potential health effects caused by contamination.
- ▶ Expressed concern about the use of chemicals and their effects on workers.

- ▶ Expressed concern about the backlog of administrative complaints filed under Title VI at EPA. In addition, members expressed concern about the time frame for submitting comments on the two new draft guidance documents related to Title VI.
- ▶ Recommended that Federal agencies form partnerships and collaborate to effectively address issues related to public health and environmental justice.

Members of the NEJAC continued to express frustration at the inability of the NEJAC and EPA to assist those who have provided testimony at public comment periods of the NEJAC about environmental justice concerns related to Federal facilities, as well as actions by other Federal agencies. Members expressed concern about the lack of compliance on the part of other Federal agencies to implement Executive Order 12898 on Environmental Justice.

Members of the NEJAC questioned why Federal agencies continue to disregard members of the communities' input related to addressing potential health effects caused by contamination. The members pointed out that communities are in the best position to inform government agencies of issues related to public health that affect their communities.

Members of the NEJAC discussed the use of chemicals in the workplace and the effects of exposure on workers, particularly the use of pesticides and their effects on migrant farm workers. Members expressed concern about the lack of enforcement of regulations related to pesticide use.

Members of the NEJAC continued to express concern about EPA's ability to process in a timely manner administrative complaints filed under Title VI. Members urged EPA OCR to accelerate the process and resolve as many cases as possible before the end of the current Presidential administration. Members of the NEJAC also expressed concern that community groups may not have sufficient time to read the documents and provide comments to OCR in an informed manner.

Members of the NEJAC discussed that Federal agencies should form more partnerships to address the public health issues faced by communities and caused by environmental contamination. Members expressed their belief that through such partnerships Federal agencies can collectively develop strategies to assess, prevent, and intervene in matters related to public health problems caused by environmental contamination.

SUMMARIES OF THE SUBCOMMITTEE MEETINGS

Summarized below are the deliberations of the members of the six subcommittees of the NEJAC during their meetings held on May 25, 2000.

Air and Water Subcommittee

- ▶ Members of the subcommittee continued discussions initiated during the December 1999 meeting of the subcommittee on the effects and regulation of public utilities as related to environmental justice. The subcommittee agreed to develop a resolution in which the NEJAC recommends that EPA regulate mercury emissions from coal-fired power plants.
- ▶ The subcommittee heard presentations on the environmental and health effects of concentrated animal feeding operations (CAFO). The subcommittee submitted to the NEJAC a proposed resolution developed jointly with the Enforcement Subcommittee recommending that EPA commit additional resources to regulate CAFOs.
- ▶ The subcommittee heard presentations and provided input on urban air initiatives around the country.
- ▶ The subcommittee also created a joint work group with the Waste and Facility Siting Subcommittee to review EPA Office of Solid Waste and Emergency Response's (OSWER) draft guidance on reducing toxic loadings.

- ▶ Members of the subcommittee also agreed to expand the subcommittee's work group on fish consumption to include members of the Indigenous Peoples Subcommittee. The work group would investigate the health effects on indigenous populations of the consumption of contaminated fish.

Enforcement Subcommittee

- ▶ Members received presentations that focused on health issues and how health data and indicators should be used by EPA to target enforcement efforts and resources in communities deemed to be the most vulnerable to exposure. Members of the subcommittee expressed concerns and asked questions about universal health indicators and targeting enforcement indicators.
- ▶ The Enforcement Subcommittee reviewed and approved amendments, submitted by the Air and Water Subcommittee, to a proposed resolution on CAFOs. Members also discussed developing a more comprehensive report that would outline and further describe concerns about and issues related to the enforcement of the operation of CAFOs.
- ▶ The members of the subcommittee discussed at length the health effects and other environmental justice issues related to the lack of enforcement of Title VI. Ms. Goode discussed OCR's outreach strategy for receiving comments on EPA's new draft guidance documents related to Title VI. Noting that the backlog of administrative cases filed under Title VI continues to increase, members of the subcommittee discussed options for decreasing the backlog of cases.

Health and Research Subcommittee

- ▶ The subcommittee held an Interagency Forum to discuss building collaborations between agencies and communities to address health care issues. The discussions of the Interagency Forum included clarifying the role of each agency, establishing areas of priority for research, and identifying a strategic plan to consider the next steps toward improving public health; implementation, development, and evaluation of future community-based health assessments; and pollution prevention and intervention issues in minority and low-income communities.
- ▶ Members of the Community Health Assessment Work Group of the subcommittee presented a report on their evaluation of the Decision Tree Framework for Community-Directed Environmental Health Assessment.
- ▶ Members of the subcommittee agreed to prepare for consideration by the Executive Council of the NEJAC a proposed resolution to make recommendations to EPA for the future development of the decision tree framework as a priority for EPA.

Indigenous Peoples Subcommittee

- ▶ In response to continued concerns expressed during earlier public comment periods of the NEJAC, members agreed that policies delineating the authority and jurisdiction of government agencies are unclear about issues related to environmental health in Indian country. Members discussed the need for each agency to better define their areas of authority and to exercise increased collaboration to better protect the health of tribal members in Indian country.
- ▶ Members of the subcommittee recommended that EPA staff responsible for environmental health in Indian country need increased training related to cultural issues and the unique government structures in Indian country.
- ▶ Members of the subcommittee discussed the need for applicable baseline data of environmental health in Indian country. Members agreed that Indian Health Services of HHS must ensure the availability of data specific to each tribe and involve tribal communities in decisions about environmental health. Further, tribal communities must understand the benefits of health research, receive accredited training, and preserve individual confidentiality during the research.

- ▶ Related to infrastructure, members of the subcommittee discussed the need for innovative sustainable technologies in Indian country and the development of proper funding or financial mechanism to provide training, education, and technical assistance to tribal members in the operation and maintenance of facilities.

International Subcommittee

- ▶ The members of the International Subcommittees heard presentations from farmworkers about living conditions of farmworkers; reports on pesticide pollutants and effects on Lake Apopka, Florida; and reports from representatives of EPA's Office of Pollution Prevention and Toxics (OPPT), and the Office of Enforcement. Recommendations for improving the health of farmworkers included increasing training and awareness of pesticides among both farmworkers and people in the medical care industry, enforcing compliance of pesticide regulations, and involving more agencies and stakeholders in these discussions. The members of the subcommittee agreed to create a Farmworker Work Group to examine these issues.
- ▶ The members of the International Subcommittee discussed the follow-up activities to the Roundtable on Environmental Justice on the U.S./Mexico Border meeting held August 1999 in National City, California. Representatives of EPA regions 6 and 9 provided updates on activities to address the recommendations that were developed at the meeting. To effectively implement the recommendations, the members of the International Subcommittee agreed to create a work group.
- ▶ The members of the International Subcommittee participated in an extensive dialogue with a delegation of representatives from South Africa in which ideas were exchanged related to environmental justice. In addition, members of the South Africa Work Group of the subcommittee provided updates on the work group's progress.

Waste and Facility Siting Subcommittee

- ▶ Members of the Superfund Redevelopment Initiative Work Group of the subcommittee explained the purpose of the work group which includes but is not limited to ensuring that principles related to environmental justice and community outreach efforts are meaningfully incorporated into the Superfund Redevelopment Initiative policies and plans. In addition, the work group will be asked to provide recommendations on plans to redevelop Superfund sites for productive and appropriate reuse. The following concerns were identified by the work group: education of Remedial Project Managers and others about the opportunities that the program presents and the need for a potentially responsible party (PRP) representative on the work group.
- ▶ Members of the subcommittee participated in a joint session with the Health and Research Subcommittee and representatives of Mossville Environmental Action Now (M.E.A.N.), GreenPeace International, Louisiana Department of Health and Hospitals, ATSDR, Louisiana Chemical Association, and EPA Region 6. The purpose of the discussion was to facilitate the discussion of environmental justice issues in the City of Mossville, Calcasieu Parish, Louisiana. As a result of discussions in the joint session, community participants and Federal representatives agreed to work together to formulate a plan to further investigate the possible dioxin exposure of residents in Mossville and neighboring communities.
- ▶ In addition, the members of the subcommittee discussed preparing for consideration by the Executive Council of the NEJAC the following resolutions: (1) Request that EPA intercede with the U.S. Department of Defense to clean up Nomans Island, Weymouth, Massachusetts and to work with the Wampanoag Tribe in this process and (2) EPA support the creation of a NEJAC work group to assist ATSDR and EPA in following public participation protocols and to focus on bringing about resolution to issues of concern to the Mossville, Louisiana community.

**SUMMARY OF APPROVED RESOLUTIONS AND
LETTER TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY ADMINISTRATOR**

This section summarizes resolutions and letter to the EPA Administrator that were discussed by the subcommittees and approved by the Executive Council of the NEJAC during the meeting. Appendix A provides the full text of each resolution that was approved by the Executive Council.

The NEJAC approved the following resolutions:

- ▶ The NEJAC recommends that EPA address environmental justice issues related to persistent organic pollutants (POP) and their effects on indigenous populations.
- ▶ The NEJAC supports EPA's efforts to regulate mercury emissions from coal-fired power plants.
- ▶ The NEJAC recommends that EPA work with other agencies to study the incidence of multiple chemical sensitivity in minority communities and low-income communities, especially those heavily impacted by environmental pollutants.
- ▶ The NEJAC urges EPA to commit additional resources to remedy pollution and environmental justice issues associated with the siting and expansion of large-scale CAFOs in low-income communities and in Indian country.
- ▶ The NEJAC requests that EPA approve the creation of a work group of the Executive Council of the NEJAC to address environmental justice issues related to Federal facilities.
- ▶ The NEJAC request that EPA approve the request of the Health and Research Subcommittee to extend the term of the subcommittee's working group that has been developing the Decision Tree Framework for Community-Directed Environmental Health Assessment to maintain continuity of the development of the framework.

The NEJAC also approved the following letter to the EPA Administrator:

- ▶ The NEJAC urges EPA to address potential health effects caused by the promulgation of Tier 2 regulations.

The NEJAC also approved the following work groups of the International Subcommittee to address issues related to environmental justice:

- ▶ Farmworker Work Group of the International Subcommittee to address environmental concerns related to the conditions under which farmworkers work.
- ▶ Follow-up to the Roundtable on Environmental Justice on the U.S.-Mexico Border Work Group of the International Subcommittee to continue to address recommendations developed at the roundtable meeting held in August 1999 in National City, California.

The members of the Executive Council of the NEJAC also approved the Framework for Community-Directed Environmental Health Assessment that was developed by the Working Group on Community Environmental Health Assessment of the Health and Research Subcommittee.

NEXT MEETINGS

The next meeting of the NEJAC is scheduled for December 11 through 14, 2000, at the Hyatt Regency Crystal City Hotel in Arlington, Virginia. Planned activities will include two opportunities for the public to offer comments. Exhibit ES-3 identifies the dates and locations of future meetings as well as the issues the NEJAC plans to address. For further information about this pending meeting visit NEJAC's home page on the Internet at: http://www.epa.gov/oeca/main/ej/nejac/conf_ne.html or call EPA's toll-free environmental justice hotline at 1-800-962-6215.

Exhibit ES-3

**FUTURE MEETINGS OF
THE NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL**

<u>Date</u>	<u>Location</u>	<u>Issue</u>
December 11-14, 2000	Arlington, Virginia	Interagency Environmental Justice Implementation
July 16-19, 2001	Baltimore, Maryland	Environmental Justice and Pollution Prevention
December 3-6, 2001	Seattle, Washington	Subsistence Consumption and Water Quality Standards

MEETING SUMMARY
of the
EXECUTIVE COUNCIL
of the
NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

**May 23 through 26, 2000
ATLANTA, GEORGIA**

Meeting Summary Accepted By:

for *Max E. King*

**Charles Lee
Office of Environmental Justice
U.S. Environmental Protection Agency
Designated Federal Official**

Haywood Turrentine

**Haywood Turrentine
Chair**

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**CHAPTER ONE
SUMMARY OF THE
EXECUTIVE COUNCIL**

1.0 INTRODUCTION

Exhibit 1-1

The fifteenth meeting of the Executive Council of the National Environmental Justice Advisory Council (NEJAC) took place on May 23 through 26, 2000 at the Omni Hotel at CNN Center in Atlanta, Georgia. Mr. Haywood Turrentine, Laborers' District Council of Education and Training Trust Fund (an affiliate of the Laborers International Union of North America), continues to serve as the chair of the NEJAC. Ms. Peggy M. Shepard, Executive Director, West Harlem Environmental Action, Inc. and member of the Health and Research Subcommittee, serves as the newly appointed vice-chair of the NEJAC. Mr. Charles Lee, Associate Director for Policy and Interagency Liaison, U.S. Environmental Protection Agency (EPA) Office of Environmental Justice (OEJ), continues to serve as the Designated Federal Official (DFO) for the Executive Council. Exhibit 1-1 presents a list of members of the Executive Council who were present and identifies those members who were unable to attend the meeting. Approximately 536 people attended the meeting.

On May 23, 2000, members of the NEJAC participated in a fact-finding tour of several communities in Anniston, Alabama. While the fact-finding tour proceeded from one site to the next, members of the community of Anniston, who served as narrators on the tour, presented for the members of the NEJAC an overview of the public health and environmental concerns of local residents. The narrators shared information about the community and sites of interest and solicited the support of the NEJAC in seeking resolution of issues confronting their communities. Exhibit 1-2, on page 1-2, describes the fact-finding tour.

On May 25, 2000, each member of the Executive Council participated in the deliberations of one of the six subcommittees of the NEJAC. Chapters three through eight of this meeting summary describe those deliberations. In addition, the members of the Health and Research and Waste and Facility Siting subcommittees of the NEJAC participated in a joint session to discuss the investigation of exposure to hazardous pollutants in Mossville, Calcasieu Parish, Louisiana, conducted by the Agency for Toxic Substances and Disease Registry (ATSDR) in November 1999. Chapter nine of this meeting summary describes that joint session.

EXECUTIVE COUNCIL

Members

**Who Attended the Meeting
May 23 through 26, 2000**

Mr. Haywood Turrentine, *Chair*
Ms. Peggy M. Shepard, *Vice-Chair*
Mr. Charles Lee, *DFO*

Ms. Rose Augustine
Mr. Luke Cole
Mr. Fernando Cuevas
Mr. Arnoldo Garcia
Dr. Michel Gelobter*
Mr. Tom Goldtooth
Ms. Jennifer Hill-Kelley
Ms. Patrica Hill-Wood
Ms. Annabelle Jaramillo
Ms. Vernice Miller-Travis
Mr. Harold Mitchell
Mr. Carlos Padin
Dr. Marinelle Payton
Ms. Rosa Hilda Ramos
Ms. Jane Stahl
Mr. Robert W. Varney**
Ms. Jana Walker
Mr. Damon Whitehead
Mr. Jess Womack
Mr. Tseming Yang

Members

Who Were Unable to Attend

Mr. Don J. Aragon
Ms. Meghan Magruder
Mr. Gerald Torres

**Attended May 23 and 24, 2000 only*

***Attended May 24, 2000 only*

In addition, the Executive Council hosted two public comment periods, a *General Environmental Justice Issues Public Comment Period* on the evening of May 23 and a *Focused Public Comment Period* on the evening of May 24, 2000 that focused on environmental justice issues related to public health. Approximately 61 people offered comments during those sessions. Chapter Two presents a summary

FACT-FINDING TOUR OF ANNISTON, ALABAMA

On May 23, 2000, members of the National Environmental Justice Advisory Council (NEJAC) participated in a fact-finding tour of several communities in Anniston, Alabama. Such fact-finding tours provide members of the NEJAC information about the environmental concerns of local communities in the areas in which meetings of the NEJAC are held. In Anniston, the fact-finding tour focused on community health issues associated with contamination of soil with polychlorinated biphenyls (PCB) caused by local industry. The following summary describes the fact-finding tour conducted during the meeting of the NEJAC.

Monsanto/Solutia Facility. The Monsanto/Solutia Facility, located in the community of Anniston, Alabama, began producing and selling PCBs in 1935. In 1975, the U.S. Environmental Protection Agency (EPA) discovered high levels of PCB contamination throughout Anniston. Community members pointed out that residents of Anniston suffer from a variety of illnesses, ranging from cancer to learning disabilities. The tour passed by "Mount Monsanto," a landfill at which the Monsanto/Solutia facility dumped waste. Community members stated that, during periods of heavy rain, runoff seeps from the mountain and floods their houses, which are located in a flood plain. In addition, PCBs contaminate Snow Creek, which runs from Anniston into several other communities. The Federal Emergency Management Agency (FEMA) recently bought several of the homes, but some residents have refused to relocate. The situation in Anniston further demonstrates that environmental justice issues are not only limited to minority communities; rather, the environmental justice issues in Anniston affect low-income caucasian communities as well.

Other Industrial Sites. The fact-finding tour also passed by a variety of other industrial sites in Anniston, including scrap and recycling yards, foundries, an underground storage tank yard, and the Anniston Army Depot. Many of the sites leach chemicals and pollutants and are located on Snow Creek or tributaries of Snow Creek that flow into the city of Oxford, Alabama. Members of the NEJAC listened to Mr. David Baker, President, Community Against Pollution (CAP), speak about Monsanto/Solutia and the health problems associated with the actions of those corporations. Mr. Baker stated that CAP's goal is to establish a health clinic in Anniston and to conduct health screening and testing for residents.

of the comments offered during the two public comment periods.

This chapter, which provides a summary of the deliberations of the Executive Council, is organized in eight sections, including this *Introduction*. Section 2.0, *Remarks*, presents summaries of the remarks offered by various speakers. Section 3.0, *Panel Sessions on Environmental Justice and Community-Based Health Model*, provides a summary of the series of panel sessions presented by various stakeholder groups. The panelists made presentations that were designed to provide insight into the issues and concerns raised with respect to environmental justice and developing a community-based health model. Section 4.0, *Reports and Presentations*, provides summaries of reports and presentations made to the Executive Council on various topics. Section 5.0, *Reports of the Subcommittees*, summarizes reports submitted to the Executive Council about the deliberations of each of the six subcommittees during their meetings on May 25, 2000. Section 6.0, *Follow-Up Issues Related to Environmental Justice and the Issuance of Permits*, focuses on several issues related to environmental justice and the issuance of permits.

Section 7.0, *Closing Remarks*, presents the closing remarks of the Director and Associate Director of EPA OEJ. Section 8.0, *Summary of Approved Resolutions and Letters to the U.S. Environmental Protection Agency Administrator*, provides a summary of the letter forwarded to the EPA Administrator by the Executive Council and presents a summary of the resolutions forwarded to the Executive Council by the subcommittees of the NEJAC that the Executive Council subsequently approved. Appendix A presents the full text of each resolution that was approved by the Executive Council. Appendix B presents a list of the members of the NEJAC. Appendix C provides a list of the participants in the meeting. Appendix D provides a copy of the written statement submitted to the NEJAC during the two public comment periods.

2.0 REMARKS

This section summarizes the remarks of the Principal Deputy Assistant Administrator of EPA's Office of Enforcement and Compliance Assurance (OECA); the Regional Administrator of EPA Region 4; the Director of EPA OEJ; and the Deputy Administrator of EPA.

2.1 Remarks of the Principal Deputy Assistant Administrator, U.S. Environmental Protection Agency Office of Enforcement and Compliance Assurance

On behalf of EPA, Ms. Sylvia Lowrance, Principal Deputy Assistant Administrator, EPA OECA, welcomed the members of the Executive Council and all the participants to the fifteenth meeting of the NEJAC. She noted that the meeting marked a "tremendously important milestone" in the progress of the NEJAC and its work with EPA.

To address public health problems in communities, Ms. Lowrance explained, it is essential to have better science with regard to those health and environmental problems that face communities. She noted that there has been a void in addressing such issues and that the missing link has been health research. She then expressed her excitement about the program that the NEJAC would be focusing on during the meeting and made a commitment that EPA would follow-up on the work accomplished by the NEJAC during the meeting. Ms. Lowrance then introduced Mr. John Hankinson, Regional Administrator of EPA Region 4.

2.2 Remarks of the Regional Administrator, U.S. Environmental Protection Agency Region 4

On behalf of the staff of EPA Region 4, Mr. Hankinson expressed pleasure in hosting the meeting of the NEJAC that had drawn higher attendance than any previous meeting. In 1996, Mr. Hankinson then reported, EPA Region 4 had been reorganized dramatically to better serve communities that have environmental justice concerns. Mr. Hankinson also stressed that the reorganization had been designed not only to serve such communities better, but also to improve the manner which the region conducts its daily activities related to environmental justice. In other words, he pointed out, to ensure that concerns related to environmental justice become integrated into all activities and across all media programs. Mr. Hankinson also acknowledged the efforts of activists -- such as Ms. Connie Tucker, Southern Organizing Committee for Economic and Social Justice and former member of the Waste and Facility Siting Subcommittee of the NEJAC; Dr. Mildred McClain, Citizens for Environmental Justice and former member of the International Subcommittee of the NEJAC; and Dr. Robert Bullard, Environmental Justice Resource Center, Clark Atlanta University and former chair of the Health and Research Subcommittee of the NEJAC -- who continue to provide leadership and advice to the region's programs related to environmental justice. He also attributed the

success of EPA Region 4 activities related to environmental justice to the leadership of Mr. Richard Green, Director, Waste Division, EPA Region 4, who, noted Mr. Hankinson, has worked to transform the activities of his staff to become more responsive to community interests and to learn about the concerns of communities in addressing waste issues. Mr. Hankinson also recognized the leadership of Ms. Phyllis Harris, Regional Counsel and Director of the Environmental Accountability Division, EPA Region 4, who leads the efforts in the region to integrate principles of environmental justice into all the activities of EPA Region 4.

Mr. Hankinson then stated that he was looking forward to the discussion related to community health and the means of incorporating considerations of a community's health needs into the decision-making process. He expressed agreement with Ms. Lowrance that it is extremely important to have the best science possible upon which to base judgements related to the environmental health of a community. Concluding his remarks, Mr. Hankinson stressed the necessity that EPA work with other agencies and other programs that not only focus on environmental issues, but also deal with all issues that must be addressed if communities are to be healthy.

2.3 Remarks of the Director, U.S. Environmental Protection Agency Office of Environmental Justice

Mr. Barry Hill, Director, EPA OEJ, began his presentation by welcoming all participants to the meeting of the NEJAC on public health, noting that it was appropriate that the meeting be held in Atlanta, Georgia, the home of the U.S. Department of Health and Human Services' (HHS) Centers for Disease Control and Prevention (CDC) and ATSDR. Exhibit 1-3, on the next page, describes the missions of those two agencies. Mr. Hill then placed the meeting in perspective by reminding the participants that the mission of EPA is to protect human health and to safeguard the natural environment -- the air, water, and land upon which all life depends. Therefore, he declared, the issue of protecting public health is of great importance to the Agency. Mr. Hill commented that, while the Agency has made great strides in safeguarding the natural environment, EPA has not been as successful in protecting human health. That is why, he explained, the EPA Administrator, through OEJ, had requested that the NEJAC focus a meeting on the issue of public health. The Agency, he emphasized, was seeking the advice and recommendations of the NEJAC, a multi-stakeholder advisory committee, on how better to address issues related to public health.

CENTER FOR DISEASE CONTROL AND PREVENTION

The mission of the Center for Disease Control and Prevention (CDC) of the U.S. Department of Health and Human Services (HHS) is to promote health and quality of life by preventing and controlling disease, injury, and disability. The CDC pledges to the American people:

- To be a diligent steward of the funds entrusted to it.
- To provide an environment for intellectual and personal growth and integrity.
- To base all public health decisions on the highest quality scientific data, openly and objectively derived.
- To place the benefits to society above the benefits to the institution.
- To treat all persons with dignity, honesty, and respect.

THE AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY

The mission of the Agency for Toxic Substances and Disease Registry (ATSDR), also an agency of HHS, is to prevent exposure and adverse human health effects and diminished quality of life associated with exposure to hazardous substances from waste sites, unplanned releases, and other sources of pollution present in the environment.

ATSDR is directed by congressional mandate to perform specific functions related to the effect on public health of hazardous substances in the environment. Those functions include public health assessments of waste sites, health consultations related to specific hazardous substances, health surveillance and registries, response to emergency releases of hazardous substances, applied research in support of public health assessments, development and dissemination of information, and education and training related to hazardous substances.

Continuing, Mr. Hill explained that the underlying question the panelists and the members of the NEJAC should address is whether there is a direct correlation between the environment and public health. Many people would agree that a direct correlation exists, he noted; however, when asked to demonstrate the connection, communities, scientists, and public health officials are unable to do so because the science does not yet exist. Mr. Hill then provided a list of questions related to demonstrating the direct correlation between the environment and public health that were to be posed over the course of the meeting:

- If not now, when will sound science be available?
- Are [government agencies] making great strides in that direction?
- How far do [government agencies] have to go to satisfy not only the scientists and public health officials, but also the concerned public?
- What must Federal, state, and local government agencies do to focus their attention and considerable resources on demonstrating the direct correlation?

- How can communities become more involved in demonstrating the direct correlation by developing and using community-based health research models?
- How can industry be of assistance in using its considerable resources to participate in the dialogue of demonstrating the direct correlation?

Mr. Hill then pointed out that the question of whether or not there is a direct correlation between the environment and public health is not a new one, but was posed and discussed by a Roman architect in the first century B.C. Continuing, Mr. Hill explained that the question now, moving to the year 2000, is whether or not residents of minority and low-income communities deserve clean air, water, and land like all other Americans. Mr. Hill then asked whether the health of the residents of those communities should be the focus of concern of the Federal government because those residents are exposed disproportionately to environmental harms and risks. He stated that the U.S. Secretary of Health and Human Services and the U.S. Surgeon General had answered yes to that question by sponsoring the Healthy People 2010 Initiative. Exhibit 1-4 describes the initiative.

Exhibit 1-4

**U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES
HEALTHY PEOPLE 2010**

The Office of Disease Prevention and Health Promotion (ODPHP), U.S. Department of Health and Human Services (HHS) serves as the coordinator for the Healthy People 2010 Initiative. The initiative is the prevention agenda for the United States and is a statement of national health objectives designed to identify the most significant preventable threats to health and to establish national goals to reduce those threats. Healthy People 2010 is a national health promotion and disease prevention initiative that brings together national, state, and local government agencies; nonprofit, voluntary, and professional organizations; businesses; communities; and individuals to improve the health of all Americans and eliminate disparities in health.

For more information about the initiative, visit the HHS home page at <http://web.health.gov/healthypeople>.

Mr. Hill explained that the initiative was designed to achieve two principal goals: (1) to improve the quality of life and increase the years of healthy life of all Americans of all ages and (2) to eliminate health disparities among the various segments of the population that are identified by race or ethnicity, education, and income. That second goal, he pointed out, is the focus of the environmental justice movement.

Mr. Hill then discussed several statistics, identified in a report developed under the Healthy People 2010 Initiative, disparities in health among minority racial and ethnic groups, compared with white Americans:

- The infant mortality rate among African-Americans remains more than double that for white Americans.
- The death rate for heart disease is more than 40 percent higher among African-Americans than among whites.
- The death rate for all cancers is 30 percent higher among African-Americans than among white Americans.
- The incidence of prostate cancer among African-Americans is more than double that among white Americans.

- The death rate for African-American women for breast cancer is higher among African-Americans than among white women, despite a mammography screening rate that is higher than that for white women.
- Hispanics [constituting only 11 percent of the total population] accounted for 20 percent of all new cases of tuberculosis.
- Hispanics have higher rates of high blood pressure and obesity than non-Hispanic whites.
- The infant death rates among American Indians and Alaska Natives almost double that for white Americans.
- The incidence of diabetes among American Indians and Alaska Natives is more than twice that among white Americans.

Mr. Hill then explained that, according to the report, environmental quality was one of the leading health indicators that explain the disparities. Regarding environmental quality, the report stated that an estimated 25 percent of preventable illnesses worldwide can be attributed to poor environmental quality, he said. In the United States alone, air pollution is estimated to be associated with 50,000 premature deaths and an estimated \$40 to \$50 billion in health-related costs annually, he noted. Mr. Hill noted further that, despite the mountain of statistics that particular report included, neither the U.S. Secretary of Health and Human Services nor the U.S. Surgeon General had concluded that there was a direct correlation between the environment and public health because sound science is not available. He also said that the report had stated clearly that, in the United States, ensuring clean water, safe food, and effective waste management had contributed greatly to a decline in the threat of many infections.

Concluding his remarks, Mr. Hill noted that answering conclusively that underlying question was beyond the breadth and the scope of the NEJAC meeting; however, he said that he, on behalf of the Agency, was looking forward to receiving the NEJAC's advice and recommendations so that all stakeholders could move closer to proving the direct correlation.

2.4 Remarks of the Deputy Administrator, U.S. Environmental Protection Agency

Mr. Michael McCabe, Deputy Administrator of EPA, expressed his appreciation to Mr. Turrentine for his leadership of the NEJAC and to the members of the

DELEGATION FROM SOUTH AFRICA

In May 2000, the U.S. Environmental Protection Agency (EPA) hosted delegates representing the South African environmental justice community to an intensive program conducted in the southeastern United States. The picture to the right shows the members of the delegation. The delegates spent approximately 10 days visiting communities that face environmental justice challenges similar to those encountered by communities in South Africa. Representatives of environmental justice communities,



including members of the South Africa Work Group of the International Subcommittee of the National Environmental Justice Advisory Council (NEJAC), spent countless hours working with EPA to prepare for the visit. A one-day “lessons learned” session covered the experiences of communities in the United States, discussions of goals that remain to be achieved, and a review of the history of the NEJAC. In addition, the delegates participated in the meeting of the International Subcommittee held on May 25, 2000, during the four-day meeting of the NEJAC in Atlanta, Georgia. Chapter seven of the summary of that meeting provides a summary of the dialogue between the members of the International Subcommittee and the delegates from South Africa.

Executive Council for the time and effort they spend on important issues related to environmental justice. He then recognized and welcomed the delegation of environmental justice leaders from South Africa present at the meeting. Exhibit 1-5 provides further information about the South African delegation. Mr. McCabe then noted that the NEJAC had been providing crucial and important advice to the EPA Administrator for the past seven years and has had a direct effect on many of the Agency’s initiatives, such as the Brownfields Economic Redevelopment Initiative. Mr. McCabe stated that he now would request that the NEJAC provide help and guidance related to the role of risk assessment and the cumulative effects of environmental contamination on communities.

Announcing that EPA’s Office of Civil Rights (OCR) soon was to release two new draft guidance documents to clarify for government agencies and the public the compliance requirements set forth under Title VI of the Civil Rights Act of 1964 (Title VI), Mr. McCabe commented that the development of the documents had been a difficult task. However, he added, EPA had broken new ground through the extensive involvement of all stakeholders in the development of the documents. Section 4.2 of this chapter provides a detailed discussion of the draft documents. Mr. McCabe then

expressed EPA’s belief that the new documents will help to address a number of the environmental justice issues that affect communities. He also expressed his hope that the NEJAC would review and provide comments on the draft documents when they are released.

Updating the members of the Executive Council on the activities of the Interagency Working Group on Environmental Justice (IWG), Mr. McCabe announced the development of the Integrated Federal Interagency Environmental Justice Action Agenda (Action Agenda). Exhibit 1-6 describes the IWG and provides background information about the Action Agenda.

Mr. McCabe explained that the goal of the Action Agenda is to bring together the resources of 11 of the 17 Federal agencies called upon in Executive Order 12898 on Environmental Justice to help environmentally and economically distressed communities. Together, Mr. McCabe stated, the Federal agencies had identified 15 environmental justice demonstration projects; it is anticipated that Federal resources will be used in a targeted manner to improve the quality of life for members of 15 minority or low-income communities that suffer disproportionately the effects of environmental contamination. Exhibit 1-7, on page 1-8, provides a list of the projects.

**INTERAGENCY WORKING GROUP ON ENVIRONMENTAL JUSTICE'S
INTEGRATED FEDERAL INTERAGENCY
ENVIRONMENTAL JUSTICE ACTION AGENDA**

On February 11, 1996, President Clinton signed Executive Order 12898 on Environmental Justice, which calls upon 17 Federal agencies and offices of the White House to ensure that principles related to environmental justice are an integral part of the Agency's mission, to the extent practicable and permitted by existing law. The Executive order mandates objectives for the Federal agencies to achieve in the following areas:

- Identify disproportionately high and adverse human health and environmental effects on minority and low-income populations.
- Coordinate research and data collection.
- Conduct public meetings.
- Develop interagency model projects.

The Executive order also establishes an Interagency Working Group on Environmental Justice (IWG), composed of representatives of those agencies and offices, to accomplish the objectives.

In June 1999, the IWG began to develop the concept of an environmental justice action agenda as a way of incorporating principles of environmental justice in all policies, programs, and activities of Federal agencies. Two environmental justice listening sessions (the first held on July 11, 1998, in Los Angeles, California and the second held on March 6, 1999, in New York, New York) sponsored by the White House Council on Environmental Quality (CEQ) and the U.S. Environmental Protection Agency (EPA) Office of Environmental Justice (OEJ) and a national conference, *Environmental Justice: Strengthening the Bridge Between Economic Development and Sustainable Communities*, held June 10 through 12, 1999, in Hilton Head, South Carolina, provided new energy to Federal interagency efforts to secure a healthy and sustainable environment for all Americans regardless of race, color, ethnicity, or economic status. The events provided new opportunities for senior Federal officials to respond directly to affected communities and for meaningful dialogue among all stakeholders.

The Integrated Federal Interagency Environmental Justice Action Agenda (Action Agenda) seeks to build dynamic and proactive partnerships among Federal agencies to benefit environmental and economically distressed communities. Increased coordination and cooperation among Federal agencies will enhance identification, mobilization, and utilization of Federal resources. Increased coordination and cooperation also will enhance the capability of distressed communities to improve environmental decision-making and more efficiently access and leverage initiatives sponsored by the Federal government. The Action Agenda will improve the quality of life for minority or low-income populations that suffer disproportionate environmental effects. Those populations also may include indigenous and tribal communities.

The Action Agenda will include examples of interagency environmental justice projects and agency-specific initiatives to be initiated or implemented by various Federal agencies in 2000. The Action Agenda seeks to build the constructive problem-solving capacity of communities in partnership with state, tribal, and local governments. The Action Agenda is not intended to replace or supersede existing Federal, state, tribal, or local government decision-making processes.

**INTEGRATED FEDERAL INTERAGENCY ENVIRONMENTAL JUSTICE ACTION AGENDA
ENVIRONMENTAL JUSTICE DEMONSTRATION PROJECTS**

Under the Interagency Working Group on Environmental Justice's (IWG) Integrated Federal Interagency Environmental Justice Action Agenda, 11 Federal agencies have initiated environmental demonstration projects to help 15 environmentally and economically distressed communities. Communities selected are composed of predominantly minority or low-income populations that face negative environmental, public health, or socioeconomic effects because of environmental contamination. The 15 projects and the lead Federal agency for each are:

- Greater Boston Urban Resources Partnership: Connecting Community and Environment (Boston, Massachusetts) – U.S. Environmental Protection Agency (EPA).
- Camden: City of Children Partnering for a Better Future (Camden, New Jersey) – U.S. Department of Housing and Urban Development (HUD).
- New York City Alternative Fuel Vehicle Summit (New York, New York) – U.S. Department of Energy (DOE).
- Addressing Asthma in Puerto Rico: A Multi-Faceted Partnership for Results (Puerto Rico) – U.S. Department of Health and Human Services (HHS) Health Resources and Services Administration.
- Bridges to Friendship Nurturing Environmental Justice in Southeast and Southwest Washington, D.C. (Washington, D.C.) – U.S. Department of the Navy, U.S. Department of Defense (DoD).
- Community Cleanup and Revitalization in Arkwright/Forest Park (Spartanburg, South Carolina) – EPA.
- Protecting Children's Health and Reducing Lead Exposure Through Collaborative Partnerships (East St. Louis, Illinois) – EPA and HUD.
- Bethel New Life Power Park Assessment (Chicago, Illinois) – DOE.
- New Madrid County Tri-Community Child Health Champion Campaign (New Madrid County, Missouri) – EPA and U.S. Department of Agriculture Natural Resources Conservation Service.
- Easing Troubled Waters: Ensuring Safe Drinking Water Sources in Migrant Farmworker Communities in Colorado (Colorado) – EPA.
- Environmental Justice and Public Participation Through Technology: Defeating the Digital Divide and Building Community Capacity (Savannah, Georgia and Fort Belknap Indian Reservation, Montana) – DOE.
- Protecting Community Health and Reducing Toxic Air Exposure Through Collaborative Partnerships in Barrio Logan (San Diego, California) – EPA.
- Oregon Environmental Justice Initiative (Portland and rural communities, Oregon) – U.S. Department of Justice.
- Metkatla Indian Community Unified Interagency Environmental Management Task Force (Ketchikan, Alaska) – DoD.
- Environmental Justice in Indian Country: A Roundtable to Address Conceptual, Political and Statutory Issues (Albuquerque, New Mexico) – DOE.

Drawing on the IWG's experiences with the 15 projects, the Federal agencies will endeavor to add more projects and broaden participation to additional agencies, Mr. McCabe continued. Emphasizing that the Action Agenda is a work in progress, he explained that the IWG would examine how the agencies work together and how they work with communities. Concluding his discussion of the Action Agenda, Mr. McCabe stated that the initiative is an opportunity for EPA to work with the Agency's Federal partners to bring new resources to communities that have environmental justice concerns.

Continuing his remarks, Mr. McCabe explained that, under the leadership of the EPA Administrator, Ms. Carol Browner, the Agency had been and would continue to be guided by the vision of a new partnership – economic prosperity and protection. Mr. McCabe expressed the Agency's belief that economic expansion and environmental protection are goals that must be achieved together. Experience, he noted, has demonstrated that an investment in the environment is an investment in job creation and in raising healthy children. Over the past seven years, he emphasized, EPA has been guided by the belief that principles of environmental justice must be rooted in the understanding that all people share the planet, all share the future; therefore, all must share the responsibility of environmental protection.

One important step in that pursuit, Mr. McCabe pointed out, has been EPA's right-to-know initiatives that provide people with the information they need to participate more meaningfully in decision-making processes that affect their communities.

Therefore, Mr. McCabe stated, EPA has worked hard to ensure that local communities have the information they require to safeguard public health and preserve the environment. He cited as an example the Toxic Release Inventory (TRI) data base, which provides citizens with information about toxic chemicals used, manufactured, treated, or transported in or near their communities. He concluded his remarks by noting that EPA has aimed to facilitate the active and informed participation of all stakeholders in the public policy process and has encouraged all citizens to seize the right to guide EPA's policy and accept the responsibility for doing so.

Mr. Damon Whitehead, Earth Conservation Corps and member of the Air and Water Subcommittee of the NEJAC, expressed disagreement with Mr. McCabe's statement that EPA "has brought new life to Title VI." Mr. Whitehead expressed his and the

NEJAC's continued concern about the backlog of administrative complaints filed under Title VI. Mr. Whitehead stressed that EPA must not wait to decide the pending cases until the two new draft guidance documents become final. In response, Mr. McCabe noted that the new draft guidance documents would provide the framework for the Agency to make decisions about the pending cases. Mr. McCabe also expressed his belief that, no matter what the outcome of the presidential elections in November 2000, EPA had built a solid foundation and legal basis for action under Title VI.

Mr. Luke Cole, California Rural Legal Assistance Foundation and chair of the Enforcement Subcommittee of the NEJAC, commented he also had been startled when Mr. McCabe remarked that EPA had made a considerable amount of progress related to the implementation of Title VI. Mr. Cole then reviewed several commitments EPA had made to the NEJAC since 1996 about guidance related to Title VI, none of which, he pointed, had the Agency met. Mr. McCabe noted that he understood the frustration that Mr. Cole and other members of the NEJAC have felt; however, he said, EPA believes that the new draft guidance documents will stand up to assaults by industry and state governments.

Ms. Rose Marie Augustine, Tucsonans for a Clean Environment and vice chair of the Health and Research Subcommittee of the NEJAC, expressed her frustration at the inability of the NEJAC and EPA to assist those who have provided testimony at public comment periods of the NEJAC about environmental justice concerns related to Federal facilities, as well as actions by other Federal agencies. Mr. Turrentine then provided Mr. McCabe with brief background information related to Ms. Augustine's concern. Noting that there continue to be a number of people coming before the NEJAC who report environmental health problems caused by Federal facilities, Mr. Turrentine stated that the NEJAC had been frustrated because the council cannot address those issues adequately because the Federal agencies do not conduct an active dialogue with the NEJAC. Mr. McCabe stated that he understands the frustration felt by the members of the NEJAC related to lack of participation by other Federal agencies. Mr. McCabe then stated his hope that the Action Agenda would prove to be an opportunity to begin such a dialogue.

Mr. Tom Goldtooth, Indigenous Environmental Network and chair of the Indigenous Peoples Subcommittee of the NEJAC, noted that many Native American communities are concerned about elevated levels of dioxin, not only in their bodies, but also in the food they consume. Mr. Goldtooth stated

that, for the past six years, his organization had been requesting that EPA release a report that reassesses dioxin; he then stated his belief that there is new information that demonstrates that dioxin causes cancer. He asked Mr. McCabe when EPA would release the document to the public. Mr. McCabe responded that the dioxin reassessment report currently was under interagency review and said that he anticipated that the draft document would be available for release in mid-June 2000. Mr. McCabe also explained that some of the delay in releasing the report had occurred because it had been reviewed by various sectors of the scientific community, both within and outside EPA. Continuing, Mr. McCabe also explained that the first version of the report had been based solely on animal studies; since then, he pointed out, many human and epidemiological studies had been conducted, and those studies provided better information. Mr. McCabe also noted that the new report was to state that the risk rate for dioxin, in terms of causing cancer, is 10 times higher than previously estimated. Mr. McCabe emphasized one important finding of the new study that revealed that steps taken by EPA over the past seven years had helped to reduce the amount of dioxins released into the environment by more than 90 percent. He stated further that a significant amount of dioxin remains in the environment that must be addressed and stressed the need to inform the public about the results of the study and possible ways to reduce human exposure to dioxin.

Ms. Rosa Hilda Ramos, Community of Cataño Against Pollution and member of the Air and Water Subcommittee of the NEJAC, expressed her appreciation for development of the Action Agenda and requested that representatives of a community group and an indigenous community group be included in the membership of the IWG to provide a "realistic" perspective on the effects of pollution on communities. In response, Mr. McCabe, assured Ms. Ramos that representatives of communities would be involved during the development of the Action Agenda.

Mr. Fernando Cuevas, Farm Labor Organizing Committee and member of the International Subcommittee of the NEJAC, expressed concern that the Action Agenda does not address the concerns of agricultural workers and that none of the 15 demonstration projects outlined in the agenda focuses on such workers. In response, Mr. McCabe noted that the 15 demonstration projects were being conducted through interagency coordination and explained that there had been no intention to exclude agricultural workers. Mr. McCabe agreed to include that population in future demonstrations projects.

3.0 PANELS ON ENVIRONMENTAL JUSTICE AND DISCUSSION OF THE COMMUNITY-BASED ENVIRONMENTAL HEALTH MODEL

In its continuing effort to provide independent advice to the EPA Administrator in areas related to environmental justice, the NEJAC focused its fifteenth meeting on a specific policy issue -- environmental justice and its relationship to community-based environmental health research. On Wednesday, May 24, 2000, the members of the NEJAC received a series of presentations from panels of various stakeholder groups. The presentations were designed to provide insight into the issues raised and concerns expressed about the relationship of environmental justice and public health. Exhibit 1-8 identifies the panel members who participated in the discussions. Mr. Lee began the panel presentations by introducing members of EPA's Science Advisory Board (SAB) and Children's Health Protection Advisory Committee (CHPAC), who had been invited to participate in the meeting of the NEJAC. Exhibit 1-9, on page 1-12, describes the SAB and the CHPAC. Members representing the SAB were Mr. Henry Anderson, Wisconsin Division of Public Health and Mr. Hilary Inyang, Center for Environmental Engineering Science and Technology, University of Massachusetts, Lowell. Members representing CHPAC were Dr. Willa Fisher, Bremerton-Kitsap County, State Health District and Rabbi Dan Swartz, Children's Environmental Health Network. Mr. Lee explained that the inclusion of representatives of other EPA advisory committees in the NEJAC's activities is a continuing effort of the Agency to coordinate the advice and activities of committees that address similar issues. He added that the NEJAC's discussion on issues of public health in an environmental justice context is related closely to similar work of the SAB and CHPAC.

Mr. Lee further remarked that the meeting of the NEJAC had been organized according to the views and advice of members of the NEJAC; EPA offices, such as the Office of Research and Development (ORD) and the Office of Pesticides, Pollution Prevention and Toxics (OPPT); and Federal agencies such as ATSDR, the National Institute for Environmental Health Sciences (NIEHS), and the National Center for Environmental Health (NCEH).

**PANEL PRESENTATIONS ON ENVIRONMENTAL JUSTICE
AND DISCUSSION OF THE COMMUNITY-BASED HEALTH MODEL**

The fifteenth meeting of the National Environmental Justice Advisory Council (NEJAC) focused on Federal efforts to secure disease prevention and health improvement in communities in which there are health disparities that may be the result of, or be exacerbated by, disproportionate effects of environmental pollutants and certain socioeconomic and cultural factors. During the meeting, the members of the NEJAC received comments and information related to environmental justice and public health from the individuals identified below.

Panel 1 – Overview: To what extent might an integrated community-based public health model that includes assessment, intervention, and prevention contribute to disease prevention and health improvement in environmental justice communities? _____

Robert Bullard, Ph.D.	Environmental Justice Resource Center, Clark Atlanta University, Atlanta, Georgia
Patrick Kinney, Ph.D.	Columbia University School of Public Health, New York, New York
Richard Moore	Southwest Network for Environmental and Economic Justice, Albuquerque, New Mexico

Panel 2 – Lessons from the Field: What strategies and areas of research should be pursued to achieve more effective, integrated community-based health assessment, intervention, and prevention efforts? _____

Ray Campion	Mickey Leland National Urban Air Toxics Research Center, Houston, Texas
David Carpenter, M.D.	University of Albany School of Public Health, Rensselaer, New York
Katsi Cook	Akwesasne Mohawk Nation, Berkshire, New York
Carlos Porras	Communities for a Better Environment, Huntington Park, California

Panel 3 – Socioeconomic Vulnerability: How can consideration of socioeconomic status and cultural factors (a) contribute to a better understanding of health disparities and cumulative and disproportionate environmental effects and (b) be incorporated into community health assessments? _____

Michael Callahan	U.S. Environmental Protection Agency (EPA), Cumulative Risk Technical Review Panel, Washington, D.C.
Walter Handy, Ph.D.	Cincinnati Health Department, Cincinnati, Ohio
Samara Swanston, J.D.	Greenpoint-Williamsburg Watch Project, Brooklyn, New York

Panel 4 – Key Federal Initiatives: What strategies should be developed, implemented, and evaluated so as to insure substantial participation, integration, and collaboration by Federal agencies, in partnership with impacted communities; public health, medical, and environmental professionals; academic institutions; philanthropic organizations; state, tribal, and local governments; and the private sector? _____

Henry Falk, M.D.	Agency for Toxic Substances and Disease Registry, Atlanta, Georgia
Jon Kerner, Ph.D.	National Cancer Institute, Rockville, Maryland
Michael Rathsam	Indian Health Services, U.S. Department of Human and Health Services, Manlius, New York
Michael Sage	National Center for Environmental Health, Atlanta, Georgia
Charles Wells	National Institute of Environmental Health Sciences, Atlanta, Georgia

Exhibit 1-9

SCIENCE ADVISORY BOARD

In 1978, the U.S. Congress established the Science Advisory Board (SAB) under the Environmental Research, Development, and Demonstration Authorization Act to provide independent scientific and engineering advice to the Administrator of the U.S. Environmental Protection Agency related to the technical nature of its regulations. The SAB functions as a technical peer review panel. The SAB also conducts its business in public view and benefits from receiving public comments during its deliberations. For more information about the SAB, please visit: <<http://www.epa.gov/sab/>>

**CHILDREN'S HEALTH PROTECTION
ADVISORY COMMITTEE**

The EPA Administrator announced EPA's National Agenda to Protect Children's Health in September 1996, and, in May 1997, EPA established the Office of Children's Health Protection (OCHP). EPA also established the Children's Health Protection Advisory Committee, a Federal advisory committee, to provide advice to the EPA Administrator about matters related to children's health.

For more information about the committee, please visit:
<<http://www.epa.gov/children/whatwe/advisory.htm>>.

Mr. Lee then repeated that the meeting would focus on Federal efforts to secure disease prevention and health improvement in communities in which there are health disparities that may be the result of, or be exacerbated by, disproportionate effects of environmental pollutants and certain socioeconomic and cultural factors, in particular:

- What strategies and areas of research should be pursued to achieve more effective, integrated community-based environmental health assessment, intervention, and prevention efforts?
- How should those strategies be developed, implemented, and evaluated so as to insure substantial participation, integration, and collaboration among Federal agencies, in partnership with: impacted communities; public health, medical, and environmental professionals; academic institutions; state, tribal, and local governments; and the private sector?

- How can consideration of socioeconomic status and cultural factors: (1) contribute to a better understanding of health disparities and cumulative and disproportionate environmental effects and (2) be incorporated into community health assessments?

The following sections provide summaries of each of the various panel presentations on environmental justice and public health.

3.1 Panel 1 - Overview: To What Extent Might an Integrated Community-Based Public Health Model That Includes Assessment, Intervention, and Prevention Contribute to Disease Prevention and Health Improvement in Environmental Justice Communities?

Mr. Lee initiated the first panel discussion, an overview of environmental justice and public health, by explaining that the panelists were to offer different perspectives about the question, to what extent might an integrated community-based public health model contribute to the prevention of disease and the improvement of health in environmental justice communities. Exhibit 1-10 presents the problem statement that Panel 1 addressed.

Exhibit 1-10

PANEL 1 - PROBLEM STATEMENT

This panel provided a historical overview of health issues in environmental justice communities and how a holistic, integrated view of disease prevention and health improvement had evolved. The three overview presentations focused on the social science perspective to address what might constitute the elements of a unified community-based public health model that includes assessment, intervention, and prevention; the environmental science perspective, examining the way that the model has enhanced the work of a university-based environmental science program; and the community perspective to ensure understanding of solution-oriented approaches to environmental health challenges confronting communities.

Dr. Bullard began his presentation by declaring that the principle of environmental justice embraces the concept that all communities are entitled to equal protection of environmental health, housing, transportation, as well as protection under civil rights laws. Dr. Bullard noted that all communities are not created equal and that, if a community happens to be poor, working class, or a community of color, it

receives less environmental protection and less access to health care and medical services. He stated that the environmental justice movement always had included community health as a central theme of its struggle. He stated that the dominant paradigm of environmental protection institutionalizes unequal protection under laws -- because it trades human health for profits. Dr. Bullard stated that the burden of proof is placed on the victims of environmental contamination. Continuing, he explained that that paradigm also creates an industry that focuses on risk analysis and risk assessment, rather than pollution and disease prevention.

Dr. Bullard also explained that it is not always a matter of having the facts and science to solve problems. For example, he stated, government agencies have 30 years of documentation of lead poisoning, yet lead still is found in housing today and is poisoning children. Dr. Bullard declared that it is a matter of government agencies having the resolution and commitment necessary to end that problem.

Continuing, Dr. Bullard pointed out that locally unwanted land uses (LULU) are not distributed randomly among communities; therefore, the effects of those LULUs are not distributed randomly, as well. Therefore, he explained, government agencies must develop targeted enforcement and intervention strategies to begin to eliminate the health disparities that affect people of color and low-income communities.

Turning his attention to the response by government agencies to these problems, Dr. Bullard acknowledged that EPA has responded to many communities. However, he also pointed out that EPA "cannot do it all." Dr. Bullard called for extensive interagency cooperation and collaboration, not only on the part of Federal agencies, but also on the part of state agencies and local and county health departments.

Concluding his remarks, Dr. Bullard stated that, when a community strategy is developed for pollution and disease prevention, the community must be at the forefront. He also noted that there remain many data gaps and that it is not sufficient for government agencies to say, "Well, we just don't know that." Government agencies, he stated, must pursue a strategy for intervening and preventing environmental health hazards and environmental degradation. Because environmental justice and public health are intertwined, he said, it is important that the NEJAC focus on community health and the

role of communities in solving and resolving such problems.

Dr. Patrick Kinney, Division of Environmental Health Sciences, Columbia University School of Public Health, explained that he would provide an overview of Columbia University's growing involvement in community-based participatory research. He stated that, when universities develop research proposals, the community should be brought into the process immediately. Dr. Kinney stated that some of the best ideas -- from both a scientific and a community perspective -- for conducting research arise from the community because members of the community are in a better position than outside researchers to understand what the issues are. Dr. Kinney then acknowledged the efforts of the NIEHS in initiating two programs. The first, the Environmental Justice Research Community Outreach and Education Program, he explained provided an infrastructure for the conduct of community-based research. The second, he continued, was the solicitation of proposals for environmental health centers that focus specifically on community-based problems.

Dr. Kinney then discussed the process of conducting community-based research. He explained that the process is fairly simple and should provide clear benefits to both the community and the researcher. An advantage for the community is that the project should provide science and data that can be used to advocate policy and help provide funding to train young people and educate the wider community. Dr. Kinney also identified some useful mechanisms for promoting community-based research, including:

- Obtain small scale funding to form partnerships to generate initial data.
- Ensure the availability of ongoing and dependable long-term funding because it takes time to develop partnerships between researchers and the community.
- Consider soliciting support from various agencies to fund centers that specifically focus on community-based participatory research.
- Provide funding to train undergraduate and graduate students to focus on community-based environmental health problems.

Mr. Richard Moore, Southwest Network for Environmental and Economic Justice and former chair of the Executive Council of the NEJAC, offered a grassroots community perspective on community-based health research and environmental justice. He began by explaining that all stakeholders must

understand that, when the relationship between environmental justice and health is discussed, the concepts of health and environmental justice cannot be separated because they are inclusive of one another. Therefore, Mr. Moore explained further, when addressing the effects of industry on communities from a health standpoint, one would see cancer clusters and children being born with severe deformities. Mr. Moore also declared that it is an insult to people of color and low-income communities when scientists and researchers cite the causes of such illnesses as a person's diet or level of education.

The reality of the situation, Mr. Moore declared, is that low-income communities and people of color are being poisoned and that the integrity of communities is being challenged by the scientific community, which blames their poor health on the food they eat. Mr. Moore then explained that communities have been conducting their own research as it related to the health issues for many years. Members of communities have gone door to door in their neighborhoods identifying the symptoms and illnesses of each resident in an affected area, only to have the research rejected by government agencies as illegitimate. Mr. Moore stated that he wished to make it very clear to government agencies that communities are "tired" of having their research rejected. Mr. Moore explained that such communities do not want to be treated differently, they just want to be treated fairly.

Ms. Vernice Miller-Travis, Partnership for Sustainable Brownfields Redevelopment and chair of the Waste and Facility Siting Subcommittee of the NEJAC, thanked the panelists for providing the introduction to the development of community-based environmental health models. She added to Dr. Kinney's presentation about the partnership established between Columbia University and West Harlem Environmental Action, Inc. for community-based research by noting that the partnership had been extraordinary; however, she pointed out, success was not achieved overnight. Ms. Miller-Travis explained that the community of West Harlem struggled for more than 10 years before obtaining support for its efforts. Ms. Miller-Travis stressed that it should not take another 10 years before government agencies and other institutions recognize that people in communities are dying.

Agreeing, Dr. Bullard explained that it was through great effort on the part of many grassroots organizations and environmental justice academicians working with NIEHS that the community partnership and environmental justice grant programs were developed and the agency

convinced that community-based research was legitimate. Also agreeing with Dr. Bullard and Ms. Miller-Travis, Dr. Kinney stated that it had taken a long time to attract the attention of scientists and that, more broadly, it continues to take a long time to convince the larger scientific community of the value and significance of community-based health research. Dr. Bullard then strongly recommended that EPA reestablish funding for the Community-University Grant (CUP) program to continue community-based projects.

Ms. Augustine expressed outrage at the cost in low productivity and illnesses that is attributable to environmental pollution. She also expressed concern about poor communities that do not have the resources to provide adequate health care. Many people do not have the money to buy medicines, she pointed out. Ms. Augustine stated that the NEJAC should begin to consider what kind of health care agencies can provide to people.

Mr. Lee agreed with the members of the panel that community-based health research is an effective method of obtaining the type of data needed to address environmental justice issues. He also said that the data would be instrumental in building a better understanding of the relationship between environmental pollution and disease in communities that are affected by environmental justice concerns.

3.2 Panel 2 - Lessons from the Field: What Strategies and Areas of Research Should Be Pursued to Achieve More Effective, Integrated Community-Based Health Assessment, Intervention, and Prevention Efforts?

Mr. Lee introduced the second panel, explaining that, since 1994, a wealth of experience related to community-based health research in the area of the environment has been accumulated. The panelists would present their experiences and recommendations for strategies for advancing the development of an integrated community-based health assessment intervention and prevention model, he continued. Exhibit 1-11 presents the problem statement that the members of the panel addressed.

Mr. Carlos Porras, Communities for a Better Environment and member of the Health and Research Subcommittee of the NEJAC, focused his presentation on three particular areas: conducting community-based and driven research; identifying and filling data gaps; and developing prevention and intervention strategies from an organized community perspective. He provided the results of the research

Exhibit 1-11

PANEL 2 - PROBLEM STATEMENT

The Institute of Medicine report, *Toward Environmental Justice: Health Research, Education and Policy Needs*, concluded that “Environmental health sciences research can contribute to environmental justice most effectively by identifying hazards to human health, evaluating adverse health effects, and developing interventions to reduce or prevent risks for all members of society. Environmental justice research bears a social relationship to the communities being studied, requiring unusual degrees of collaboration if it is to be scientifically valid as well as policy relevant and if the findings are to be effectively implemented.” Since 1994, a wealth of experience and knowledge with regard to community-based health research in the area of environmental justice has been systematically accumulated. Some focus on communication, partnerships, and capacity-building; others focus on community assessments; still others focus on intervention and prevention strategies. This panel of community-based practitioners will present recommendations based on their experience for strategies and targeted research that would most effectively advance at this time an integrated community-based health assessment, intervention, and prevention model.

he conducted in Los Angeles, California through the award of a NIEHS grant to form a partnership with a local university. Mr. Porras, using maps of Los Angeles County, California, showed the members of the NEJAC the locations of facilities that report information to the TRI data base, a national data base. Explaining that the TRI data base is only one tool that he uses to show adverse effects, he stated that such a national emissions inventory data base does not provide the complete picture of emission releases in a community. The next step, Mr. Porras explained, was to use data bases that contained regional and local information about emission releases for the area of concern. By closing data gaps, Mr. Porras explained further, a community can begin to build an argument for cumulative exposures. Data gaps, however, still existed for the area of concern, he explained. Mr. Porras stated that, to fill the remaining data gaps, members of the community conducted a physical inventory for which community members “walked the streets” to document and list everything in a quarter-mile radius of the area of concern. Community members discovered, Mr. Porras continued, that 70 percent of the industries and facilities located in the area were

not reporting any information to a regulatory agency. On the basis of its research, the community was able to convince the South Coast Air Quality Management District to reevaluate its policies related to threshold levels for toxics.

Concluding his comments, Mr. Porras commended EPA and the other agencies participating in the meeting of the NEJAC. However, he reminded the Federal agencies and the NEJAC, environmental justice communities are not yet treated equally. He stated that government programs being implemented are market-based, expressing his concern that the “market” has never been sensitive to poverty.

Ms. Katsi Cook, Akwesasne Mohawk Nation, stressed the importance of continuing to hold meetings, such as that of the NEJAC, to discuss issues and find solutions to health problems. She explained that Akwesasne is one of the many communities of the Mohawk Nation that straddle the U.S.-Canadian border at the 45th parallel. She explained further that tribal communities use their relationship to the natural world as a source of their health and well-being. Ms. Cook stated that indigenous peoples see how, in this industrial society, those relationships are being severed by toxic contamination of the natural world and of human beings. She also stated that the contamination of the natural world reflects yet one more compromise of the rights of indigenous peoples.

Continuing, Ms. Cook informed the NEJAC that, in 1983, EPA designated her community a Superfund site because of contamination with polychlorinated biphenyls (PCB) that had been dumped. She explained that her community began to make connections with academia and state institutions to form partnerships to address the adverse health effects the contamination was causing.

Ms. Cook then discussed one of the principal strategies that was used in Akwesasne, a multidisciplinary approach to the conduct of the research. She explained that wildlife pathologists, epidemiologists, and biochemists had investigated the contamination of the food chain with toxics. Expressing agreement with Mr. Porras, Ms. Cook stressed that agencies must work together, making use of each agency’s expertise, to focus on addressing and preventing environmental contamination in environmental justice communities. She also explained that, under an environmental justice grant from NIEHS, the Akwesasne community had been able to establish a partnership with the University of Albany to investigate the

relationship of human health and toxic contamination and the effect of such contamination on the way of life of an indigenous people.

In addition, Ms. Cook emphasized that government agencies must better understand principles related to environmental justice and how those principles can maintain the sustainability of communities. Further, Ms. Cook strongly encouraged EPA to refund the CUP grant program to further community-based research. She concluded her remarks by encouraging EPA and other agencies to look beyond “what is hot in science” and provide funding for efforts that are significant and meaningful to communities.

Dr. David Carpenter, University of Albany, School of Public Health, informed the NEJAC that the University of Albany and the New York State Department of Health have been working together since the mid-1980s, he pointed out, before the terms “environmental justice” and “community-based research” became popular. He explained that the Akwesasne community is located on a relatively small reservation on the St. Lawrence River in New York. Continuing, he explained that, in addition to a former General Motors foundry site adjacent to the reservation, two aluminum foundries are located upriver from the reservation. Continuing, Dr. Carpenter explained that all three facilities had used PCBs in hydraulic fluids and that the fluids had caused contamination of the traditional fishing grounds of the Mohawk Nation.

He explained that it is important to communities to have information so that they can make decisions for themselves, for example, information that explains which species of fish may not exhibit high levels of PCBs. Dr. Carpenter noted that, when state agencies made recommendations, the elders and chief of the tribe advised the community to stop eating fish, and the community did so--at a price to their culture, he pointed out, but nevertheless resulting in improvement in their health.

Continuing his discussion, Dr. Carpenter emphasized the great value of the experience of the academic community and the community affected by environmental contamination working together and sharing information. Dr. Carpenter then pointed out three basic principles for achieving successful work between the academic community and the affected community:

- **Respect:** Respect is recognizing the humanity of individuals, as well as understanding that people in the community have a better sense of the health problems the community faces.

- **Equity:** Equity means that, if a researcher is going to collaborate with a community, the researcher should truly involve the community by employing members of the community and training them to work on the project.
- **Empowerment:** Empowerment means that a researcher works toward the goal of being “unnecessary” to the community because the researcher should be providing the community with the tools necessary to take charge of their own affairs.

Concluding his remarks, Dr. Carpenter emphasized the urgency of addressing environmental justice issues related to PCB contamination. He explained that the issue of subsistence fishing in waters contaminated with PCBs affects African-American communities in urban areas, as well as indigenous peoples in rural areas. While PCBs do not cause immediate death, he added, the chemicals do cause cancer, disrupt the immune system, and cause learning disabilities among children. In conclusion, Dr. Carpenter stated that communities must be informed so that they can make their own decisions about their health.

Dr. Ray Campion, President, Mickey Leland National Urban Air Toxics Research Center, began his presentation by providing a brief overview of his organization. He explained that the center was authorized under the Clean Air Act Amendments of 1990 (CAAA) to provide data to EPA to conduct risk assessments for monitoring controls that had been in place for 10 years for air toxics. Dr. Campion then explained that all research conducted at the center is thoroughly peer reviewed to ensure acceptance by the scientific and medical public health communities and, more important, in court cases. He explained that most of the nine studies the center currently was undertaking are community-based efforts. The focus of the studies, he continued, is the development of methodologies to assess “personal” exposures to various contaminants.

Continuing, Dr. Campion explained that the center’s support base is a congressional appropriation as part of the budget of EPA’s ORD. He added, that, to date, the relationship between the center and EPA had been positive and that the research of the organizations had been complimentary.

Dr. Marinelle Payton, Harvard School of Public Health and chair of the Health and Research Subcommittee of the NEJAC, thanked the panel members for their valuable advice about the need for community-based environmental health research. She asked each panel member what areas of

research each would consider to be important to further pursue a more collaborative integrated community-based health assessment intervention and prevention program.

In response, Dr. Campion noted that he believed that the research area related to personal exposure was an important methodology for analyzing air quality that is consistent with public health effects. Dr. Campion also noted that the use of devices that are user-friendly in his experience had been a key to success. He also stressed the need to provide the results of community-based health research back to the community that is being studied. Dr. Carpenter responded that additional emphasis should be placed on conducting research on children to determine long-term effects of environmental contamination.

Mr. Porras explained that conducting community-based environmental health assessments would prompt other areas of research that are necessary and crucial in assessing the health of a community. He also remarked that it was important to recognize the limits of science and that data gaps exist.

Dr. Michel Gelobter, Rutgers University and chair of the Air and Water Subcommittee of the NEJAC, asked how peer reviewers in the scientific community view community participation in research and, on behalf of the communities, what kind of community review was necessary. Dr. Campion responded that the question Dr. Gelobter had raised has been very difficult to resolve. He explained that many scientists continue to be suspect of involving members of the affected community during reviews of data collected because of the fear that the community members would come to the table with their minds made up. He stated that many scientists also do not feel comfortable allowing communities to participate during the formulation of a study because the view of the scientists is that the community already has drawn its final conclusion.

Dr. Carpenter responded that he would take a slightly different point of view on Dr. Gelobter's question. Dr. Carpenter agreed that the "average" academic does not relate to community-based research; however, he stated, government agencies should require the involvement of the affected community as a criterion for obtaining funding. He also noted that community-based research need not "cut corners" related to scientific methods. He then stated his belief that no one is advocating that the quality of research be compromised. In conclusion, Dr. Carpenter commented that research should be conducted in a way that encourages the community to "buy-in" to the effort and supports the application

of contemporary research criteria in the resolution of problems that are of concern to the community.

Mr. Tseming Yang, Vermont Law School and member of the International Subcommittee of the NEJAC, asked when the panel members would believe that enough research had been conducted to perform a valid analysis of the situations. Dr. Carpenter responded that the question is, when does research translate to intervention, which he stated he believes is a very important question because "enough" data never would be collected. However, he said, there would be a point at which intervention activities become crucially necessary. Dr. Carpenter stated that, many disadvantaged communities have an urgent need for intervention, and that intervention should not be delayed until all the research has been completed.

Ms. Shepard commended Mr. Porras for showing the members of the NEJAC how he was able to use his research and data to influence public policy related to his community. She then asked whether other panel members had had similar experiences in how data collected through a community-based approach had an effect on policy. Responding, Dr. Carpenter explained that many scientists believe there is a line between being a scientist and being an advocate for policy changes. Many scientists, he continued, are fearful of losing funding and being labeled as advocates rather than "objective" scientists. He expressed his belief, however, that scientists have a responsibility to document health effects to place pressure on government agencies to find solutions to such problems.

3.3 Panel 3 - Socioeconomic Vulnerability: How Can Consideration of Socioeconomic Status and Cultural Factors: (a) Contribute to a Better Understanding of Health Disparities and Cumulative and Disproportionate Environmental Effects and (b) Be Incorporated into Community Health Assessments?

Mr. Lee explained that Panel 3 would discuss the relationship between physical and socioeconomic factors as important elements in understanding cumulative risks and health disparities. Exhibit 1-12, on page 1-18, describes the problem statement examined by Panel 3. Mr. Lee also informed the members of the Executive Council that OEJ, in collaboration with representatives of industry serving on the NEJAC, had searched extensively for a panelist representing the industrial sector. However, Mr. Lee explained, that industry has not focused on that area of research. Ms. Samara Swanston,

Exhibit 1-12

PANEL 3 - PROBLEM STATEMENT

Reduction of health disparities by the year 2010 is a significant national goal. The goal is potentially relevant for minority, low-income, or indigenous communities that suffer health disparities that may be the result of, or be exacerbated by, exposure to environmental pollutants and certain racial, ethnic, and socioeconomic vulnerabilities. How does socioeconomic vulnerability contribute to health disparities or disproportionate environmental effects in environmental justice communities? This panel will explore the extent to which socioeconomic vulnerabilities might be incorporated into community health assessments for populations already suffering health disparities. Panelists will make recommendations about research priorities for the development of policy in areas of socioeconomic vulnerability, cumulative risk, and disproportionate environmental effects.

Executive Director, Greenpoint-Williamsburg Watch Project, informed the subcommittee that socioeconomic vulnerabilities, health disparities, and disproportionate environmental health effects strongly resonated in her community, Greenpoint-Williamsburg, Brooklyn, New York, a community of color. She explained that the measures most commonly used to evaluate socioeconomic status are income, education, and occupational prestige; however, she pointed out that such measures are limited in that they do not capture significant components of social stratification that could influence health status. She then identified other measures of socioeconomic status, including the conditions in which an individual lives; intergenerational transfers of wealth, since inheritance of wealth occurs less frequently among minorities; and race. Ms. Swanston explained further that socioeconomic status does not have the same meaning in communities of color as it does in other communities. For example, she said, racism affects the quantity and quality of medical care received. Continuing, she reported that studies have shown that African-Americans and other minorities are twice as likely as white Americans to receive routine medical care in hospital clinics and emergency rooms where it is impossible to see the same care provider for each visit; therefore, she said, they cannot achieve continuity of medical care.

Ms. Swanston also noted that racism directly affects the health status of minorities, as shown in several studies that established an association between reported racial discrimination and hypertension.

According to experts on cancer, socioeconomic status plays a role in the use of various screening tests; higher socioeconomic status was correlated with more frequent use of screening tests and more aggressive therapy and therefore, a greater chance of surviving cancer. Ms. Swanston also stated that socioeconomic status plays a role in obesity that could lead to diabetes, and that a variation in utilization rates among socioeconomic groups is connected strongly to health status. For example, Ms. Swanston stated, diabetes was nonexistent among the Native American population until many members of that population were forced to change their traditional diets because of the effects of pollution and relocation.

Continuing, Ms. Swanston explained that poverty and the lack of health insurance (because of poverty) also increase the risk of health disparities. She also pointed out that poverty exposes people to environmental pollution in a variety of ways that generally are not recognized. As an example, Ms. Swanston noted that poor people often heat their homes with kerosene heaters, a practice that results in a substantial increase in indoor concentrations of particulate matter, sulfates, and nitrates.

Referring to a 1998 report released by HHS, Ms. Swanston pointed out that the report found that health in America is tied unambiguously to income and education. The report found that adults who have less education die at a younger age and have higher death rates for all major causes of death, she said. Noting that socioeconomic status influenced the health of children, the report stated that low birth rate and infant mortality rates are higher among the children of less educated mothers, she explained. Ms. Swanston also discussed a NIEHS study of 314 children, of whom 88 percent were African-American, 9 percent were Hispanic, and 2 percent were white. The study, she continued, found that the calcium intakes of African-American and Hispanic children were significantly below the daily recommended levels. She noted that the low calcium intakes were in part attributable to lactose intolerance, a condition reported by many African-Americans. She noted further that nutritional deficiencies are a result of poverty and that such deficiencies increase the effects of exposures to pollution. Poor diet during childhood likely was not overcome by the achievement of a higher socioeconomic status later in life, she observed further.

Ms. Swanston also stated that racism plays a role in disparate exposures. She stressed the importance of the community that people lived in and stated that cultural barriers, as well as language barriers, race,

gender, location of residence, and location of workplace, should be considered in determining socioeconomic status.

Dr. Walter Handy, Cincinnati Health Department, expressed agreement with Ms. Swanston that people for whom the rates of death, illness, and disability are higher than those among other segments of the population tend to be concentrated in the poorest enclaves of society and that that pattern had been observed in communities around the world. He noted that the observations made by researchers revealed that inadequate medical care, low income, poor health habits, unemployment, race, and hazardous living conditions are factors related to the relationship of poverty and disparate health effects. Dr. Handy noted that social support and coping style also may offer “keys” to examining the most difficult social contexts of health status, as well as lead to the development of more effective partnerships to reduce pollution and identify effective coping strategies and social support mechanisms among residents of such communities.

Continuing, Dr. Handy noted that prevention theory and the construct of public health practice are inventions of the twentieth century, both of which rest on three elements, “what we believe causes ill-health, how we measure health, and who gets measured for health.” He remarked that the models used to develop and analyze prevention and public health principles and practices have grown more complex as scientists have come to understand the greater complexity of the relationships that affect health outcomes. In addition, Dr. Handy explained, the scientists’ beliefs about the causes of death and health status have become more complex as well. Where as an individual’s health status once may have been identified as dead or alive, he pointed out, that status now can be described through concepts such as morbidity, comorbidity, disability, wellness, quality of life, socioeconomic behavior, and environmental health. Because of those new concepts, Dr. Handy stated, government agencies and other health organizations now think in terms of risk factors. Prevention, he continued, as a way of viewing public health, emerged from dissatisfaction with the effectiveness of available treatment options.

Turning his attention to issues related to environmental justice and public health, Dr. Handy stated that the intent of incorporating socioeconomic vulnerabilities into community health assessments for populations already suffering health disparities was to prevent disparate effects. During discussions about enforcing Title VI in the area of addressing and preventing disparate effects on health, Dr. Handy noted, a number of options have been

considered, such as primary and secondary prevention efforts to prevent industry from polluting excessively by requiring industries to comply with existing permitting laws and prevent such situations from occurring. For some, however that option is not sufficient, he stated. He noted further that many such options had been built upon risk assessment, describing one option developed by Mr. Jerome Balter, Public Interest Center of Philadelphia, Pennsylvania. Dr. Handy stated that, in May 1998, Mr. Balter developed an environmental justice protocol for EPA to use in the Agency’s guidance on the implementation of Title VI. Dr. Handy stated that the protocol used available health statistics, such as age-adjusted total mortality, cancer mortality, and infant mortality rates. He explained that Mr. Balter had proposed to use the health statistics as an alternative to risk assessment as a simple way of understanding the health status of a community, and allowing local and state agencies to make permitting and siting decisions on the basis of that information. He also described another alternative, comparative risk analysis, that uses scientific information and “blends” the values and attempts to render community decisions about environmental and health factors.

Dr. Handy concluded his presentation by providing the following research and policy recommendations to the NEJAC:

- Acknowledge that the number of problems that face communities are excessive and too large for a single stakeholder group to address; therefore, options for collaboration and training to allow stakeholder groups to work more effectively together should be developed.
- Observe people who have developed effective social systems and coping strategies that have seemed to “inoculate” themselves against some of the adverse health effects caused by environmental contamination.
- Examine the notion of the interaction of sources of morbidity or ill health, such as mental health problems associated with lifestyle choices or work or family settings that are likely to be exacerbated by physical health problems (diabetes, cancer, and a variety of other health problems), which in turn are intensified by pollution.
- Increase research efforts to develop baseline data to be used in protocols that can be applied to permitting decisions.

Mr. Michael Callahan, EPA Cumulative Risk Technical Review Panel, announced EPA's intent to establish guidelines for conducting cumulative risk assessments. He explained that the cumulative risk assessment guidelines are divided into two parts, one for developing a framework document for cumulative risk and the second for developing the guidelines for conducting a cumulative risk assessment. Mr. Callahan defined cumulative risk as the combined risks from two or more agents or stressors, with repeated exposures over time, effects of prior and current exposures, and the effects of one stressor on the toxicity of another.

Continuing, Mr. Callahan also explained that this document would be scientific rather than a policy document. He explained that cumulative risk approaches require a different mindset than do traditional risk assessments. Historically, Mr. Callahan stated, when EPA was created in 1970, pollution was more visible. The main goal of the Agency, he said, was to stop the entry of the pollution into the environment, a chemically-focused assessment. Cumulative risk is a different type of operation; it is a population-focused assessment, Mr. Callahan pointed out. He noted that EPA and other government agencies must develop new and efficient approaches for collecting the necessary data to conduct cumulative assessments.

Another challenge, Mr. Callahan observed, is the concept of vulnerability, not only as a socioeconomic factor but as a biological factor, as well. Describing vulnerability, Mr. Callahan explained that different people who undergo the same rate of exposure to chemicals respond differently. He stated the issue arises in cumulative risk assessment, rather than in the traditional approach.

Concluding his remarks, Mr. Callahan stated that the framework document should be available for review by September 2001. He requested that the NEJAC participate in the development of the document.

Ms. Miller-Travis asked whether the cumulative risk assessment framework document will give EPA the ability to address and investigate the concept of synergistic effects of cumulative and multiple chemical exposures. Responding to Ms. Miller-Travis, Mr. Callahan noted that cumulative and multiple chemical exposures would be a major focus of the guidance documents. Dr. Fisher asked whether the framework document would include the full life span of exposures, such as the fetal stage and breast feeding, to focus on exposures children face. Mr. Callahan noted that the guidance documents would discuss the issue in the sense of

special populations that differ from the average adult.

Ms. Patricia Hill Wood, Georgia Pacific Corporation and member of the Waste and Facility Siting Subcommittee of the NEJAC, asked Dr. Handy whether he had identified a list of key factors that were crucial for the baseline data needed to understand public health concerns. In response, Dr. Handy explained that Mr. Balter's protocol on environmental justice was built on an assumption that local and state public health agencies have "research-grade" health statistics; however, he said, most health departments do not possess such statistics. He explained that different physicians may have different tendencies toward diagnosing a particular illness as primary, secondary, or tertiary. To obtain good health statistics, Dr. Handy stated, interaction among physicians is necessary to provide uniformity so that diagnoses can be analyzed across a population rather than only in individuals. As a follow-up question, Ms. Wood asked Dr. Handy whether there were any efforts underway to reach a consensus among members of the medical public health community about the baseline data, to which Dr. Handy replied that he was not aware of any such results.

Mr. Whitehead asked the panel whether a study has been conducted on the relationship of diet and chemical exposures. Ms. Swanston noted that diet and chemical exposure are interrelated, stating that a good diet may not prevent deadly diseases; however, the poor diet that results from poverty may increase a person's susceptibility to diseases from environmental exposures, she said.

Mr. Goldtooth asked Mr. Callahan how the framework document for the cumulative risk assessment would capture the cultural and spiritual values of American Indian and Alaskan Native tribes. Mr. Callahan responded that stressors such as cultural issues would be addressed in the document, most likely as an area that requires additional research. Dr. Handy added that a fair amount of research has been conducted on psychological stressors that can produce changes in the body's physiology that increase the individual's susceptibility to chemical agents.

3.4 Panel 4 - Key Federal Initiatives: What Strategies Should Be Developed, Implemented, and Evaluated so as to Insure Substantial Participation, Integration, and Collaboration by Federal Agencies, in Partnership with Impacted Communities; Public Health, Medical, and Environmental Professionals; Academic Institutions; Philanthropic Organizations; State, Tribal, and Local Governments; and the Private Sector?

Introducing the fourth panel, Mr. Lee stressed the need for increased coordination and collaboration among Federal agencies to address public health issues in environmental justice communities. Panel 4, he pointed out, is made up senior officials of various Federal agencies that address public health issues who were to discuss the types of strategies needed to resolve these issues. Exhibit 1-13 describes the problem statement Panel 4 addressed.

Exhibit 1-13

PANEL 4 - PROBLEM STATEMENT

This panel will offer perspectives of senior officials of the U.S. Environmental Protection Agency and other Federal public health agencies. The officials will provide overviews of their respective agencies or office's efforts to address environmental justice and community-based public health needs. During this session and throughout the meeting of the National Environmental Justice Advisory Council, they will explore recommendations for determining what strategies should be developed, implemented, and evaluated to ensure participation, integration, and collaboration by Federal agencies in partnership with all affected stakeholders.

Dr. Henry Falk, Assistant Administrator, ATSDR, noted that he had met with the Health and Research Subcommittee of the NEJAC during its December 1999 meeting to discuss some of the activities being conducted at ATSDR that are related to environmental justice.

Dr. Falk provided a brief overview of ATSDR by explaining that ATSDR is headquartered in Atlanta, Georgia and works closely with EPA, because the agency was created under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Therefore, the mission of the agency is to work with EPA to resolve health

issues related to Superfund and other hazardous waste sites.

Turning his attention to the charge of the panel, Dr. Falk explained that he would address the questions posed in terms of the strengths and limitations of ATSDR in addressing environmental justice issues related to public health. In terms of strengths, Dr. Falk expressed his belief that, because of ATSDR's focus on working on specific sites, the agency is well prepared to address community issues. Principles related to environmental justice, he noted, are woven into the fabric of ATSDR because, he said, "There is no other way for us [ATSDR] to work at sites." Dr. Falk also informed the NEJAC about ATSDR's diverse workforce and the diversity training that is provided to staff.

In addition to site activities, Dr. Falk stated that ATSDR participates in scientific activities to build the agency's capacity to address issues that may arise at sites. For example, he explained, ATSDR has developed community toxicology profiles and health education materials for communities.

Describing the limitations of ATSDR related to addressing environmental justice, Dr. Falk explained ATSDR is a Federal agency and that change is not always easy. However, many at ATSDR, he pointed out, attempt to develop creative and resourceful strategies to address issues. Dr. Falk also explained that the service ATSDR provides is not simple. For example, the agency provides services, exposure assessments, where the knowledge is limited, he said. In addition, Dr. Falk pointed out the mandate of ATSDR is narrow in scope, for example, ATSDR cannot provide health care to communities.

Concluding his remarks, Dr. Falk provided the following recommendations:

- Improve how Federal agencies develop partnerships with communities.
- Increase coordination and collaboration among Federal agencies to develop "holistic" solutions to public health issues.
- View ATSDR as a catalyst for developing solutions.

Dr. Charles Wells, Director of Environmental Health Services, Office of Director NIEHS, began his presentation by providing a brief overview of NIEHS. He noted that NIEHS is located in Research Triangle Park, North Carolina and that its mission is to prevent disease associated with environmental causes and to reduce the burden of such diseases

by defining the relationship of environmental exposure and adverse health effects, individual differences in susceptibility to such exposures, and changes in susceptibility with age. Exhibit 1-14 describes the mission of NIEHS. He also noted that the prevention of disease is one of the most important services that a government agency can provide to its citizens. Dr. Wells then explained NIEHS' definition of environmental justice. NIEHS, he said, empowers people who live in areas in which there are high concentrations of pollution, by providing them information and instruments for addressing those issues, while also providing them with technical assistance directly or through academic institutions in addressing problems that result from pollution or other environmental issues.

Exhibit 1-14

**NATIONAL INSTITUTE OF
ENVIRONMENTAL HEALTH SCIENCES**

Human health and human disease result from three interactive elements: environmental factors, individual susceptibility and age. The mission of the National Institute of Environmental Health Sciences (NIEHS) is to reduce the burden of human illness and dysfunction from environmental causes by understanding each of those elements and how they are interrelated. The NIEHS achieves its mission through multidisciplinary biomedical research programs; prevention and intervention efforts; and communication strategies that encompass training, education, technology transfer, and community outreach.

Because communities must develop a better understanding of the effects and risks to human health from exposure to environmental contamination, NIEHS decided to establish new mechanisms at the agency to educate the public about environmental health issues and to support community involvement in the identification and investigation of environmental health concerns, he pointed out. Dr. Wells explained that NIEHS conducts two types of research programs, public health and translational. Issues of environmental justice are addressed under the agency's translational research programs, he said. Translational research can be defined as a conversion of findings from basic, clinical, or epidemiological environmental science research into information, resources, or tools that health care providers and community residents can apply to improve public health outcomes in at-risk populations, Dr. Wells explained. He then identified

the objectives of environmental translational research programs related to environmental justice:

- Improve understanding of how physical and socioenvironmental factors affect human health.
- Develop better means of preventing health problems related to environmental conditions.
- Promote partnerships among scientists, health care providers, and community members to address public health issues.

Dr. Wells then described several translational research programs at NIEHS that are related to community-based prevention and intervention research. He explained that the community-based prevention and intervention research was developed to implement culturally relevant prevention and intervention activities in economically disadvantaged and underserved populations that are affected adversely by environmental contaminants. He noted further that the program is intended not only to foster the refinement of scientifically valid intervention methods, but also to strengthen the participation of affected communities in decision-making processes at NIEHS. Dr. Wells also stated that the community-based prevention and intervention research projects were designed to expand NIEHS' knowledge and understanding of the potential causes and solutions of disorders related to environmental conditions and to enhance the capability of communities to participate in the development of research approaches and intervention strategies. He explained that the research projects are conducted in a manner that reinforces collaboration between community members and research institutions. Dr. Wells noted that, the relevant results therefore are made available to the community in a clear and useful manner.

Turning his attention to NIEHS' Environmental Justice Partnership for Communications program, established by NIEHS several years ago, Dr. Wells explained that the program was established to "bridge" the communication gap so that affected communities would have a role in identifying and defining problems and risks related to the community's environmental health. He noted that the research grant for the program and for the environmental justice community-based program were developed in a manner designed to empower disadvantaged communities with resources to effect healthful changes.

Dr. Jon Kerner, Assistant Deputy Director, Research Dissemination and Diffusion, Division of Cancer Control and Population Sciences, National Cancer

Exhibit 1-15

NATIONAL CANCER INSTITUTE

The National Cancer Institute (NCI) leads the nation's fight against cancer by supporting and conducting ground-breaking research in cancer biology, causation, prevention, detection, treatment, and survivorship. Decades of work by scientists supported by NCI have produced real gains. The rate of new cancer cases declined an average almost one percent each year between 1990 and 1996, while the cancer death rate fell, on average, 0.6 percent per year during that same period. Powerful new technologies are enabling NCI to detect and diagnose more cancers at an earlier stage, before they have had the chance to spread. And many people who have cancer are living longer, and with a better quality of life.

Even so, cancer continues to be a major health problem; for many Americans, it remains the most feared of diseases. In addition, the burden of cancer falls disproportionately on certain racial, ethnic, and socioeconomic groups. Although NCI has made real and lasting progress against the disease, it is crucial that NCI reach the ultimate goal of preventing and curing all forms of cancer.

To more rapidly achieve that goal, NCI has developed the following plan:

- Sustain at full measure proven, productive research programs.
- Seize extraordinary scientific opportunities made possible by our previous research discoveries.
- Create and sustain mechanisms that build the capacity to allow the scientific community to apply rapidly evolving discoveries and emerging technologies for the benefit of human health.

Institute (NCI), began his presentation by providing a brief overview of the organization of NCI. Exhibit 1-15 describes the mission of NCI. Dr. Kerner explained that all Federal health agencies face a challenge in their efforts to eliminate health disparities. Before discussing NCI's approach to eliminating health disparities, Dr. Kerner expressed his belief that conducting studies and research in laboratories are not "hard science;" it is "easy science." He explained that the studies conducted in laboratories are relatively easy because there are experimental controls. When scientists "go out into the real world," he observed, and work with people who are being exposed throughout their life spans to

many different factors, such as race, income, and education, that becomes hard science. Therefore, he explained, one of the goals at NCI is to understand the causes of disparities in cancer rates and to develop effective intervention strategies to eliminate those disparities. Continuing, Dr. Kerner explained that NCI needs new centers for population research and should collaborate more closely with other government agencies to expand its ability to fund and monitor cancer-related health disparities.

Concluding his remarks, Dr. Kerner informed the members of the NEJAC about a new initiative of NCI, CDC, and the American Cancer Society (ACS) that brings together the different strengths of each organization to better serve communities. The program, Translating Research Into Improved Outcomes (TRIO), will focus on how agencies can work together to promote the adoption of good scientific evidence-based cancer control and intervention at all levels, particularly in underserved communities, he said.

Mr. Michael Sage, Deputy Director, NCEH, CDC, informed the members of the NEJAC that NCEH works in the area of preventing disease and does not conduct efforts to control disease, except in emergency situations. Exhibit 1-16 describes the NCEH.

Exhibit 1-16

NATIONAL CENTER FOR ENVIRONMENTAL HEALTH

National Center for Environmental Health (NCEH) works to prevent illness, disability, and death from interactions between people and the environment. The agency is committed to safeguarding the health of populations that are particularly vulnerable to certain environmental hazards--children, the elderly, and people with disabilities.

NCEH seeks to achieve their mission through science, service, and leadership. NCEH conducts research in the laboratory and in the field to investigate the effects of the environment on health. The agency tracks and evaluates environment-related health problems through surveillance systems. NCEH also helps domestic and international agencies and organizations prepare for and respond to natural, technologic, humanitarian, and terrorism-related environmental emergencies.

Mr. Sage explained that NCEH focuses on environmental factors that may affect health outcomes in people. He remarked further that the strength of the agency lies in its division into four areas: the Emergency and Environmental Health Services Division; the Environmental Hazards and Health Effects Division; the Laboratory Sciences Division; and the Birth Defects, Child Development, and Developmental Disabilities Division. Mr. Sage explained that the strength that each division brings are related to biomonitoring efforts. He stated that, over the past few years, NCEH has increased the development of technology and expertise in measuring substances in people. Over the next few years, NCEH plans to increase the effort to develop the first national profile and possibly community-based profiles of the exposure of people to various substances.

Mr. Sage also stated that NCEH has broad expertise in conducting epidemiological studies and the application of community needs assessment tools. He then mentioned several prevention programs developed by NCEH, including a childhood lead poisoning prevention program and a national asthma program.

Mr. Sage then noted several barriers that NCEH faces in working with communities. Mr. Sage explained that NCEH's funding is disease-and issue-specific. Funding allocated for lead poisoning prevention cannot be used for any other issue, he said. He stated that, because most of NCEH's programs are implemented through state and local health departments, very few of NCEHs' efforts are truly community-based. Identifying a lack of effective communication, Mr. Sage explained further that there is a lag time between translation of the science and its use in community education and prevention. He also expressed his concern about the lack of understanding of cultural issues at NCEH.

Mr. Sage then recommended broad-based funding for CDC and state and local health departments be encouraged, so that those entities would be able to deal with all public health concerns and with the relationships among those concerns. He also suggested the need to commit to program-specific projects to address environmental justice concerns. In addition, he recommended that NCEH spend more time and effort on issues related to developing health communication and strategies among communities, other health agencies, and NCEH.

Mr. Michael Rathsam, Indian Health Services (IHS), HHS, began his presentation by stating that IHS has addressed environmental health disparities and has provided direct health care services to tribes for 45

years. He stated that the mission of IHS, in partnership with American Indians and Alaskan Native people, is to raise the physical, mental, social, and spiritual health of those populations to the highest level. He also explained that the goal of IHS was to ensure comprehensive and culturally acceptable personal and public health services are available and accessible to all American Indians and Alaskan Native people. Mr. Rathsam also explained that the fundamental purpose of IHS is to uphold the Federal government's obligation to promote healthy American Indian and Alaskan Native communities and cultures and to honor and protect the inherent sovereign rights of tribes.

Over the past 45 years, Mr. Rathsam stated, IHS has made significant progress in achieving its mission and goals. Since 1955, he continued, ambulatory medical care visits have increased by 1,200 percent, and, since 1973, infant mortality rates have decreased by 54 percent. He also noted decreases in mortality rates for tuberculosis, gastrointestinal disease, unintentional injuries, pneumonia and influenza, homicide, alcoholism, and suicide. However, despite such successes, he said, health disparities still remain. For example, Mr. Rathsam pointed out, life expectancy of Native populations is 71, five years less than the national average; tuberculosis occurs at a rate six times greater than the rate for all races; alcoholism occurs at a rate seven times greater than the rate for the U.S. general population; the suicide rate is twice the national average. In addition, Mr. Rathsam pointed out that, in Indian country, there are 79 percent fewer nurses, 60 percent fewer dentists, and 45 percent fewer physicians, compared with the national averages. He identified several underlying causes for such disparities, including the social and cultural disruption of traditional Native societies, lack of education and economic opportunities, and high levels of unemployment and poverty.

Mr. Rathsam then provided a brief overview of IHS's Office of Environmental Health and Engineering (OEHE), which is responsible for addressing environmental health disparities related to environmental justice in Indian country. Exhibit 1-17 describes the three divisions of OEHE.

Turning his attention to the successes of IHS, Mr. Rathsam explained that reducing health disparities is possible when basic public health programs became a part of the infrastructure of a community. For example, he noted, the percentage of Indian homes that have safe water and sanitary liquid waste disposal systems increased from 15 percent in 1955 to 90 percent in 1998 because of the determined efforts of tribes and IHS. At the same time, Mr.

Exhibit 1-17

**INDIAN HEALTH SERVICES
OFFICE OF ENVIRONMENTAL HEALTH AND
ENGINEERING**

The Office of Environmental Health and Engineering (OEH&E) of Indian Health Services (IHS), U.S. Department of Health and Human Services (HHS), is responsible for addressing environmental health disparities related to environmental justice in Indian country. OEH&E has three divisions:

- The Division of Environmental Health Services provides expertise to tribes for environmental health programs that include indoor and outdoor air quality, toxic and solid waste management programs; community injury prevention, groundwater contamination, pesticides, food protection, and occupational health programs.
- The Division of Sanitation Facilities Construction is charged with the design and construction of water, sewer, and solid waste management systems.
- The Division of Facilities Engineering focuses on the construction and maintenance of IHS and tribal hospitals, clinics, and health stations.

Rathsam continued, the age-adjusted death rate from gastrointestinal disease among American Indians and Alaska Natives decreased by 91 percent. In addition, in the mid-1980s, IHS assisted several remote and impoverished tribes in the development of self-sustaining, fee-for-service, solid waste management programs that provided door-to-door collection service, thereby reducing the opportunity for disease to spread from decomposing waste dumped in residential areas, he said. Mr. Rathsam noted that each of the programs he had discussed continues to operate successfully and now as a stable component of the community's infrastructure.

Continuing, Mr. Rathsam discussed one very important limitation faced by IHS, the lack of complete funding. Mr. Rathsam then recommended that more adequate, sustainable funding be provided to further reduce health disparity in Indian country. He cited the need for frequent and routine communication between tribes and agencies that fund tribal environmental programs and those agencies that provide direct comprehensive environmental health services. He also suggested

that, to better use resources, Federal agencies avoid duplication of services.

Dr. Harold Zenick, Acting Deputy Assistant Administrator for Science, EPA ORD, began his presentation by providing a brief overview of EPA's three interrelated elements. He explained that the first element of EPA is the Agency's program offices, such as the Office of Air and Radiation (OAR), Office of Water (OW), Office of Solid Waste and Emergency Response (OSWER), and OPPT, that through congressional and legislative mandates, have missions to carry out to ensure that people have clean water, air, and land. He then stated that the second element of EPA is the Agency's 10 regional offices that interact with the states and communities to carry out the regulations and decisions that are developed at EPA. Dr. Zenick then explained that the third element is support offices, such as OECA, the Office of Information, and ORD.

Dr. Zenick then noted that the various panelists had established that environmental factors are only one of the many elements faced by communities that lead to health disparities. Other factors, he pointed out, include race and socioeconomic status. Dr. Zenick expressed his belief that the ability of Federal agencies to effectively ensure healthy communities is dependent upon those agencies being able to take a more integrated approach to examining the dynamics among all factors. He also stated that it is essential that the public health and medical community recognize that environmental conditions are a major ecological factor related to health status. Lacking that acknowledgment, Dr. Zenick continued, very little progress will be made in eliminating health disparities that are caused by environmental factors. He also stated that other key players must be engaged.

For example, Dr. Zenick expressed his appreciation that the U.S. Department of Transportation (DOT) is becoming involved more actively by including an environmental justice component in its decisions related to land use. He also stated that it is crucial to engage the U.S. Department of Housing and Urban Development (HUD) to realize its mandate to address environmental and health issues, as well. He also stressed the importance of renewing the Federal government's commitment to and recognizing the inextricable link between environmental health, public health, and the provision of health care.

Continuing, Dr. Zenick stressed the importance of conducting additional research and developing better tools to increase understanding of issues related to

public health and environmental justice. He recommended for consideration the development of a diagnostic action-oriented model, which, he noted, is not particularly different from the model currently in the medical community. Under such a model, Dr. Zenick explained, government agencies should consider how to combine expertise when studying a community in an attempt to improve the health of the community. Dr. Zenick proposed developing a "SWAT" team approach under which a group of experts would work with the community to conduct a "diagnostic" test of the community to determine its health status.

Ms. Shepard asked the panel what types of methods of interventions truly work to reduce health disparities. In response, Dr. Kerner stated that CDC has developed many intervention strategies; however, many are not targeted to underserved communities, he added. He also commented that "community-placed" research interventions do not work as well as "community-based participatory" research interventions. Dr. Wells also expressed agreement with Ms. Shepard, noting that the intervention programs and strategies of NIEHS were developed by the community in concert with academia or governments. In addition, intervention strategies developed without the participation of the affected community would be ineffective, he observed.

Mr. Rathsam remarked that the lessons IHS has learned through preventing injuries in Native American communities were the necessity of sound scientific data collection and analysis and the importance of advocacy in explaining scientific data to the community. He also stressed the need for community mobilization or coalition-building and development of intervention within the community and the need for the collection and analysis of scientific data to measure the success of interventions. Dr. Falk stressed further the importance of dialogue between the communities and Federal agencies and the active participation of the community.

Ms. Augustine expressed her belief that ATSDR should develop a better understanding of the culture of the community that the agency interacts with. In response, Dr. Falk stated that he recognized that there are some situations in which members of the community are approached in a less than sensitive way. He made a commitment to rectifying such situations in the future. He also noted the difficulties that arise in working with diseases that have numbers of potential causes, and acknowledged her concerns, and pledged better performance in future situations.

Mr. Cole expressed his appreciation that the various representatives of Federal agencies were present to discuss issues related to environmental justice. Mr. Cole also expressed his concern that the past policies and practices of some of the agencies represented had been barriers to social justice. For example, Mr. Cole pointed out, ATSDR has a credibility problem among communities. In response, Dr. Falk noted that ATSDR works with some 500 sites around the country and acknowledged that cases might arise in which communities were not happy with the work done by ATSDR. Dr. Falk then stated, however, that he does not believe that to be the general prevailing situation throughout the country. He also made a commitment to correct such problems.

Dr. Gelobter asked the panel members about the priority given to community-based research in their respective agencies and what importance is given to research that focus on communities affected by disease caused by environmental contamination. In response, Dr. Zenick explained that EPA was attempting to challenge scientists in the Agency to provide a sense of the effects of the research being conducted and to determine whether any mechanism had been established to distribute that information to consumers. He also noted that EPA is building stronger relationships with its regional offices, since it is the regional offices that come into daily contact with communities and state officials. In addition, he explained, ORD established a Community Science Council to review the work that the office currently is undertaking and to identify opportunities for existing programs to benefit communities.

4.0 REPORTS AND PRESENTATIONS

This section summarizes reports and presentations related to a number of issues the NEJAC had considered in its deliberations during previous meetings, as well as during the current meeting.

4.1 Report on the Activities of the U.S. Environmental Protection Agency Office of General Counsel

Mr. Lee informed the members of the Executive Council that OEJ had invited Mr. James Nelson and Mr. Anthony Guadagno of the EPA Office of General Counsel (OGC); however, because of flight cancellations, neither was to attend, Mr. Lee explained. Mr. Lee also pointed out that it had been intended that the presentation serve as a follow-up to issues discussed at the meeting of the NEJAC held in December 1999 that focused on how to better integrate principles related to environmental

justice into permitting decisions. On behalf of Mr. Nelson and Mr. Guadagno, Mr. Lee continued, Mr. Hill would provide information about the activities of OGC. Mr. Hill then reported that OGC is completing work on a legal memorandum that examines the legal authorities under which OW, OSWER, and OAR operate to identify opportunities to consider environmental justice under environmental regulations. The memorandum, he announced, was to be available within a few weeks following the meeting. Mr. Lee then reminded the members of the Executive Council that it has been the position of OEJ that issues related to environmental justice are not just an outgrowth of the Executive order on environmental justice but are “embedded” in the statutes under which the Agency operates. He expressed his belief that the memorandum is an important milestone that will ensure that that position becomes a reality.

4.2 Report on the Activities of the U.S. Environmental Protection Agency Office of Civil Rights

Ms. Ann Goode, Director, EPA OCR, updated the members of the Executive Council on the status of the *Title VI Interim Guidance for Investigating Administrative Complaints Which Challenge Permitting Decisions* (Interim Guidance). She announced that within 7 to 10 work days, EPA was to publish in the Federal Register the Agency’s revised policies related to administering Title VI.

Ms. Goode described the process related to the development of the new draft guidance documents by explaining that the Agency had received more than 115 sets of written comments on the Interim Guidance since the document was released for review in February 1998. In March 1998, she reminded the members, OCR had established a Federal advisory committee on Title VI under EPA’s National Advisory Council for Environmental Policy and Technology (NACEPT). She also noted that many members of the NEJAC also served on that committee.

Ms. Goode continued the discussion by describing the various steps of outreach OCR had taken over the past year to obtain comments on the Interim Guidance and information pertinent to it. In September 1998, she explained, OCR had convened a small group of stakeholders to discuss policy options for addressing the major concerns expressed by stakeholders related to the implementation of the Interim Guidance. OCR then had solicited from individuals in that “mixed” stakeholder group comments about potential policy options, she said. In October 1999, Ms. Good

continued, the first draft of the revised guidance was completed, the documents having undergone approximately eight or nine iterations since the first draft.

In addition, Ms. Goode pointed out, OCR conducted a vigorous internal review process throughout the development of the guidance, and the documents have been reviewed by senior managers at the Agency. In addition, OCR also met with Mr. Bill Lann Lee, U.S. Department of Justice (DOJ), Civil Rights Division and Ms. Lois Schiffer, DOJ Environmental Division, on several occasions to ensure that the revised guidance could be implemented. Ms. Goode expressed her belief that EPA has listened to the concerns of all stakeholder groups throughout the revision process.

Continuing, Ms. Goode informed the members that OCR has planned a “robust” outreach process in conjunction with the release of the new draft guidance documents. Once the draft documents have been published in the Federal Register, she continued, a 60 day public comment period will be provided for citizens to offer comments on the documents. The documents also will be available on the OCR Internet home page, she added. In addition, before the draft documents are made publicly available, OCR will conduct briefings with members of Congress, the NEJAC, and the Environmental Council of the States (ECOS) to ensure their “buy in” on the new draft documents, she said. Ms. Goode also assured the members of the Executive Council that OCR will mail hard copies of the documents to more than 3,000 stakeholders, using OEJ’s mailing list. To answer and address concerns of stakeholders, OCR will hold five public listening sessions across the country, she continued. Ms. Goode made a commitment that she would attend as many meetings as possible to ensure she has opportunity, and provides to the public, the opportunity for dialogue in small group settings.

Turning her attention to the differences between the Interim Guidance and the new draft documents, Ms. Goode explained that the primary difference is the physical layout of the documents. The initial Interim Guidance document was a 13-page document, while the revised document will be approximately 100 pages, she said. The increase in the size of the documents, she pointed out, was that result of an effort to be more responsive to concerns expressed by stakeholders about providing definitions about the processes by which EPA handles complaints filed under Title VI. Ms. Goode then described the contents of the new draft documents. Exhibit 1-18, on page 1-28, provides a description of the new draft documents. Ms. Goode stressed that OCR made all

**U.S. ENVIRONMENTAL PROTECTION AGENCY
TITLE VI OF THE CIVIL RIGHTS ACT OF 1964
GUIDANCE DOCUMENTS**

On June 27, 2000, the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) will publish in the Federal Register two draft guidance documents related to Title VI of the Civil Rights Act of 1964 (Title VI). EPA will receive public comments for 60 days, until August 28, 2000. The draft documents are titled:

- *Draft Title VI Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs (“Draft Recipient Guidance”).*
- *Draft Revised Guidance for Investigating Title VI Administrative Complaints Challenging Permits (“Draft Revised Investigation Guidance”).*

Title VI prohibits discrimination based on race, color, or national origin by any entity that receives Federal financial assistance. When entities (such as state environmental agencies) receive financial assistance from EPA, they accept the obligation to comply with Title VI and with EPA’s Title VI implementing regulations. Persons who believe recipients of EPA funds are administering their programs in a discriminatory manner may file an administrative complaint with EPA.

In 1998, EPA issued its *Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits (“Interim Guidance”)* for public comment. The Interim Guidance provided an initial framework by which EPA OCR processes complaints filed under Title VI that allege discriminatory environmental and health effects from environmental (pollution control) permits issued by recipients of EPA financial assistance.

EPA has revised the Interim Guidance on the basis of a robust stakeholder comment process, as well as the public comments received on the Interim Guidance. EPA convened an advisory group to provide recommendations and has conducted numerous meetings with a variety of stakeholders over the past two years.

What is the purpose of the documents?

The *Draft Recipient Guidance* is intended to offer suggestions to assist state and local recipients of EPA financial assistance develop approaches and activities that address potential concerns related to Title VI. Examples include fostering effective public participation; conducting assessments of potential adverse impacts; developing geographic, area-wide pollution reduction programs; and using informal resolution techniques. Recipients are not required to adopt or implement any of the Title VI approaches or activities described in the *Draft Recipient Guidance*.

The *Draft Revised Investigation Guidance* describes procedures EPA staff may use to perform investigations of administrative complaints under Title VI that allege adverse, disparate effects caused by permitting decisions.

In response to comments received by EPA, the *Draft Revised Investigation Guidance* differs from the Interim Guidance by providing more detail and clarity. The new guidance presents more detailed explanations of the various steps in an investigation and the actions that may be considered at each stage (such as, how it is expected a finding of adverse impact will be reached or when an allegation likely will be dismissed). In addition, both guidance documents define terms through examples and a glossary.

More than 120 written comments on the Interim Guidance were received from a broad range of interested parties. Community groups, environmental justice organizations, state and local governments, industry, academia, and other interested stakeholders also contributed to the development of the draft guidance documents through the Title VI Implementation Advisory Committee established by EPA, as well as through many other meetings with stakeholders during the past two years.

possible attempts to make the documents as user-friendly as possible, not only in format and organization, but also by using “plain English.”

The new documents also clearly outlines the step-by-step approach EPA uses to determine whether there will be an adverse impact, she said. The specifics of every case, Ms. Goode pointed out, also will be crucial in terms of allegations made by the complainant and the resulting facts unearthed by EPA’s investigation.

Ms. Goode concluded her presentation by briefly reviewing the time frame for issuing final guidance on Title VI. After the 60 day public comment period, Ms. Goode explained, OCR would analyze the comments received and sign the final guidance before the end of the current administration.

Mr. Whitehead expressed his concern that the burden of proof continues to be placed on individual complainants to demonstrate that violations are being committed by recipients of Federal funds. Mr. Whitehead explained further that he believes EPA need not wait to investigate recipients of Federal funds until an individual complaint is received. He also requested that information be provided to the NEJAC about the number of independent reviews the Agency has conducted of a recipient’s entire program before waiting for an individual complaint to be filed with EPA under Title VI.

Continuing, Mr. Whitehead also addressed the issue of the number of backlogged cases that OCR has not processed. He declared that EPA should not rely on guidance to enforce the law. He recommended that during the remaining months of the current administration, the revised guidance be released, and decisions made about some of the cases that have been on the books for the past six to seven years.

In response to Mr. Whitehead’s concerns, Ms. Goode discussed three major points: burden of proof, program compliance review, and the issue of backlogged Title VI cases. She stated that the new guidance is very clear in stating that the burden of proof is on EPA. Continuing, she stated that it is not the burden of the complainants and that EPA has the responsibility relative to receiving information from the complainant to determine whether Federal money is being spent inappropriately. Ms. Goode then addressed the concern related to program compliance review, agreeing with Mr. Whitehead that there have been cases in which a complaint has been rejected; but, EPA has continued to receive a number of complaints in that area, suggesting that there may be something “awry” in the program. She

informed Mr. Whitehead that the new guidance also outlines EPA’s authority to conduct reviews of delegated programs. Finally, Ms. Goode addressed the issue of backlogged cases, agreeing that the backlog is a very real problem and stating that the Agency is researching ways to increase resources to address the issue.

Mr. Cole expressed his appreciation to Ms. Goode for attending the meeting of the Enforcement Subcommittee on the previous day; he then reiterated several points that were discussed during that meeting with Ms. Goode for the benefit of the Executive Council. He expressed the importance of community involvement related to the new documents and also related to conducting reviews of delegated programs.

Mr. Cole expressed concern the community groups may not have sufficient time to read the documents, digest them, work with technical advisors, and then provide comments to OCR in an informed manner. Ms. Goode addressed his concern by stating that all community groups should have at least three weeks to review the documents.

Ms. Goode also made a commitment to adding a session at the end of July in Los Angeles, California. She added that she would consider adding another session in the final stages of the process in the Washington, D.C. area to ensure that stakeholders have adequate time to review the documents.

Mr. Cole then expressed similar concern and frustration related to cases backlogged at EPA. He expressed concern about EPA’s ability to process the existing 47 cases, while, he pointed out, the Agency continues to receive new administrative complaints. Mr Cole strongly urged Ms. Goode to accelerate the process and resolve as many cases as possible before the end of the current administration. In response, Ms. Goode explained that OCR does not have sufficient resources to resolve the cases. She expressed her continued commitment to the effort to resolve the resource issue. The issues involved in resolving Title VI complaints are extremely complex and require hours of coordination among Federal agencies, Ms. Goode pointed out.

Mr. Yang also expressed concern about the brief time remaining to accomplish results related to Title VI before the end of the current administration. He then inquired about activities, other than those related to Title VI, that OCR conducts to ensure compliance with civil rights laws. Many issues and concerns expressed by community groups, he emphasized, cannot be addressed through the Title

VI process. Ms. Goode informed Mr. Yang that OCR is responsible not only for compliance with Title VI, but also for the employment discrimination program under Title VII of the Civil Rights Act of 1964, as well as the Agency's affirmative employment program. In the areas covered by those two programs, she continued, OCR had made strides over the preceding two years in improving its ability to provide guidance, support, and oversight for the Agency's affirmative employment and discrimination complaints process. In addition, Ms. Goode stated, OCR had initiated an alternative dispute resolution pilot process as a means of encouraging informal resolution of issues related to Title VII. Continuing, she explained that the affirmative employment program at EPA was being "retooled" to evaluate more than just the numbers of people, but to include job status, as well. Ms. Goode stated that OCR had done a good job not only in improving the representation of women and people of color, but also in improving their numbers in policy-making positions and senior-level ranks. She also informed the NEJAC that OCR was working to ensure the establishment of detailed accountability processes and training and support mechanisms to address the quality-of-life concerns of personnel at EPA.

Mr. Yang asked whether OCR was taking active steps to investigate compliance, rather than waiting for the finding of a complaint. Ms. Goode responded that there have been no compliance reviews related to Title VI because, before 1994, EPA did not focus on the issue, she continued, no guidance for the conduct of compliance reviews has been developed.

Ms. Miller-Travis also expressed concern about the time frame for preparing the new draft guidance. Ms. Goode again emphasized that OCR would work diligently to complete the guidance. She explained that OCR will use contractor support to summarize the comments made on it and noted that she has the support of senior managers for the effort to complete that task as soon as possible.

4.3 Report on the Activities of the U.S. Environmental Protection Agency Office of International Activities

Mr. Alan Hecht, Principal Deputy Assistant Administrator, EPA Office of International Activities (OIA), began his discussion by emphasizing the importance of the current meeting for environmental justice on an international level. For the preceding two weeks, he noted, OIA had hosted a delegation from South Africa that had come to the United States to learn about activities related to environmental justice. During the delegation's two-week tour, its member visited cities in the southeast, had the

opportunity to meet with officials in Atlanta, and participated in the meeting of the International Subcommittee of the NEJAC, he continued.

Mr. Hecht then offered a brief overview of issues related to the U.S./Mexico border to be addressed in the next year. He explained that EPA and several other Federal agencies implement the Border XXI program, which is at the end of its five-year life; therefore, when the new administrations in both Mexico and the United States have been elected, the agencies will develop the next phase of the program, he said. Mr. Hecht stressed that the Border XXI program is a crucial initiative for communities along the border from San Diego, California to Brownsville, Texas. Along the border, he explained, there are two problems: (1) a legacy problem, specifically a problem of neglect of issues related to the environment, urban development, and natural resources and (2) the explosive growth of border communities, the fastest growing segment of the population in both the United States and Mexico, with a population projected to double by 2020. The population increase, Mr. Hecht pointed out, will be accompanied by an increase in urban development. If urban planning is inadequate, he continued, such development could further erode natural resources, potentially causing conflict between the United States and Mexico. EPA has made a commitment to working with the Mexican government, a particularly important step because a new administration is to be elected, Mr. Hecht added.

Mr. Hecht reminded the members of the NEJAC that OIA and the International Subcommittee of the NEJAC had sponsored the Roundtable on Environmental Justice on the U.S./Mexico Border held in August 1999, in National City, California. Exhibit 1-19 describes the activities conducted during the roundtable meeting. At the end, OIA had been presented with more than 100 recommendations to act upon. Several developments had taken place as a consequence of that meeting, Mr. Hecht continued. First, he said, EPA regions 6 and 9 have increased specific community-level activities and addressed community problems identified at the meeting. Both regional offices have developed an action plan for addressing the needs identified during the roundtable meeting, he said.

Continuing, Mr. Hecht explained that one or two priority issues among the many that had been identified are symbolic of the relationship between the United States and Mexico, and also the relationship between the environmental justice communities on both sides of the border. One such symbolic issue, Mr. Hecht said, is the case of abandoned contaminated sites in Mexico near the

Exhibit 1-19

**ACTIVITIES OF THE ROUNDTABLE
ON ENVIRONMENTAL JUSTICE
ON THE U.S./MEXICO BORDER**

The Roundtable on Environmental Justice on the U.S./Mexico Border was held in National City, California August 19 through 21, 1999.

Recommendations developed during the conference included:

- Establishing an environmental justice border commission.
- Identifying vacancies on border advisory committees.
- Applying the U.S. Environmental Protection Agency (EPA) Region 9 Campo Tribal Model for other areas.
- Increasing participation by local governments and community groups in the decision-making process.

An important part of the roundtable meeting was the concurrent work group sessions that focused on environmental justice and labor justice; immigration, trade, and environment; indigenous peoples and border justice; and environmental health issues along the U.S./Mexico border.

border, that once were operated by U.S. industries and companies. Those sites, which have become hazardous to communities living near them, have become a symbol of the failure of government, specifically a failure of society, to address an obvious injustice, he said. Participants at the roundtable meeting had urged EPA to cleanup those sites. Mr. Hecht announced that EPA was pursuing every legal means available to ensure that the sites are restored; however, he noted, EPA has very limited authority to take action related to sites that are located in Mexico. Therefore, he continued, the Agency had begun to think more broadly about other possible approaches to the cleanup of those sites, he said. EPA had turned to many industries in the United States that redevelop brownfields properties, he said. Without the impetus of the successful roundtable meeting, Mr. Hecht explained, such innovative thinking about how to address such issues probably would not have occurred. He also assured the members that such initiatives would include community involvement components.

Mr. Hecht also explained that one of the recommendations developed by participants in the roundtable meeting requested a formal structure, such as an advisory committee, through which members of communities that have concerns about environmental justice could play a role in the development of the next phase of the Border XXI program. Mr. Hecht stated that EPA would use existing mechanisms and create new ones, if necessary, to ensure community involvement. He also pointed out the EPA has an existing Federal advisory committee that was created specifically to address environmental and infrastructure issues related to the U.S./Mexico border, the Good Neighbor Environmental Board (GNEB). Exhibit 1-20 describes the mission of the GNEB. Mr. Hecht then announced that Mr. Jose Bravo, Southwest Network for Environmental and Economic Justice and former member of the International Subcommittee of the NEJAC, recently had been appointed to serve as a member of the GNEB.

Exhibit 1-20

**GOOD NEIGHBOR ENVIRONMENTAL
BOARD**

The Good Neighborhood Environmental Board (GNEB) was created by the Enterprise for the Americas Initiative Act of 1992 (EAIA) (7 United States Code Section 5404) to advise the President and the Congress about environmental and infrastructure issues and needs in the states contiguous to Mexico. The statute requires that the GNEB submit an annual report to the President and the Congress. The GNEB submitted reports in October 1995, April 1997, and July 1998. The GNEB's 1997 and 1998 report translated into Spanish and disseminated widely on both sides of the border.

The act requires that the membership of the board include representatives of appropriate U.S. government agencies; the governments of Arizona, California, New Mexico, and Texas; and private organizations, including community development, academic, health, environmental, and other nongovernment entities that have expertise on environmental and infrastructure problems along the southwest border.

A presidential Executive order delegates implementation authority to the administrator of the U.S. Environmental Protection Agency (EPA). The GNEB, which operates under the Federal Advisory Committee Act (FACA), meets three times annually at locations along the U.S./Mexico border.

Concluding his remarks, Mr. Hecht emphasized that the roundtable meeting had been an important milestone focused on specific environmental justice issues and concerns along the border.

Mr. Arnaldo Garcia, Urban Habitat Program and chair of the International Subcommittee of the NEJAC, expressed his appreciation to Mr. Hecht for his report and for the commitment of OIA. Mr. Garcia pointed out that one of the priority issues EPA must address is toxic waste sites, specifically those located in Tijuana, Candados Prestos, and Tamaulipas. He stated that EPA must do additional work in those areas. Mr. Garcia also informed the NEJAC that another priority recommendation requested the formation of a border environmental justice commission that would play a role with EPA in providing oversight and monitoring of the implementation of the EPA regional and border environmental justice plans.

Continuing, Mr. Garcia explained that the issue of “legacy” wastes is significant because the border region has been affected by contamination left behind by departing industries and other entities, as have so many other low-income and communities of color. He expressed his belief that EPA faces many challenges in addressing the legacy issue. Therefore, Mr. Garcia pointed out, the creation of a border commission on environmental justice would be a crucial step ensuring that communities have their own venue through which to voice their concerns and participate in decision-making processes. Mr. Garcia concluded his remarks by expressing his appreciation to the staff of EPA regions 6 and 9 for their efforts following the roundtable meeting.

Mr. Goldtooth commented that the International Subcommittee had requested that the Indigenous Peoples Subcommittee also participate in the roundtable meeting. He explained that the Fort Mojave Tribe, as well as a consortium of five tribes that live along the Columbia River, had requested that EPA Region 9 arrange a meeting with the governor of California about potential groundwater contamination from the proposed Ward Valley dump for low-level radioactive material. He asked whether there had been any developments in this area. In addition, Mr. Goldtooth stated that EPA must conduct better outreach to tribal citizens living along the border and involve them in decision-making processes.

Mr. Hecht responded by stating that EPA Region 9 had been working diligently to identify recommendations developed by the participants in the roundtable meeting, but that he would follow-up

to determine whether the region had been successful in arranging a meeting with the governor. Addressing Mr. Goldtooth’s other concern, he explained that the definition of “tribal” differs in the United States and Mexico. However, he noted, EPA is committed to working with the Mexican government to encourage public participation at all levels.

4.4 Presentation on the Creation of the Puerto Rico Subcommittee of the National Environmental Justice Advisory Council

Mr. William Muszynski, Deputy Regional Administrator, EPA Region 2, provided an update on the efforts of EPA Region 2 to improve and protect the environment in Puerto Rico. He explained that EPA Region 2 includes the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and the states of New York and New Jersey, as well as seven Federally recognized tribes. Mr. Muszynski then announced that the creation of a new NEJAC subcommittee on Puerto Rico had been approved by the EPA Administrator. Exhibit 1-21 provides a list of the members of the subcommittee who have been appointed to date. Mr. Muszynski explained that the subcommittee would have 12 members and that Dr. Carlos Padin, Dean of the Metropolitan University of San Juan, Puerto Rico, was to be the first chair of the new subcommittee. Ms. Teresita Rodriguez, EPA Region 2 Caribbean Environmental Protection Division in Puerto Rico, would serve as the DFO for the subcommittee, he said. The members, he continued, represent a variety of backgrounds, including academia; grassroots and community-based organizations; government; and industry.

Exhibit 1-21

MEMBERS OF PUERTO RICO SUBCOMMITTEE

Dr. Carlos Padin, **Chair**
Teresita Rodriguez, **DFO**

Rosa Corrada
Eris Del Carman Galán-Jimenez
Iris Cuadrado Gomez
Juan C. Gomez-Escaree
Jennifer Mayo
Graciela Ramirez-Toro
Rosa Hilda Ramos
Efrain Emmanuelli Rivera
Jose Cruz Rivera
Rafael Robert
Michael Szendry

Mr. Muszynski then explained that Puerto Rico has unique geopolitical, cultural, language, socioeconomic, and environmental concerns; therefore, unique and creative approaches will be necessary to resolve those concerns, he continued. The island is densely populated, having approximately 3.6 million residents, he said. Mr. Muszynski also stated that the residents of Puerto Rico and local government agencies have had difficulty working together to address the environmental and environmental justice issues that affect communities. He expressed his hope that the creation of the new subcommittee of stakeholders from Puerto Rico would increase the representation of such stakeholders and the meaningful involvement in the environmental decision-making process that affects their communities. He also expressed his belief that the new subcommittee would serve as a vehicle for a more collaborative effort by bringing together government, industry, academia, and residents of Puerto Rico to identify and resolve environmental concerns and environmental justice issues.

In addition, EPA Region 2 had embarked on a continuous expansion of the Agency's on-site presence in Puerto Rico and the Virgin Islands, continued Mr. Muszynski. He announced that the region's Caribbean field office had been elevated to the Caribbean Environmental Protection Division. Its staff had been increased from approximately 20 in 1995 to 47, with the continuing hope of expanding the staff to 60, he said. EPA Region 2, he continued, also had established a new EPA field office in the Virgin Islands.

Finally, Mr. Muszynski described the development of the region's translation policy, which focuses on the translation of documents into Spanish. The goal of the program is to increase community involvement and understanding, he stated.

Mr. Lee explained that the creation of the subcommittee represents EPA's Region 2 long-term and substantial commitment to addressing environmental justice issues in Puerto Rico. Mr. Lee then welcomed Dr. Padin as a new member of the Executive Council of the NEJAC. Dr. Padin expressed his hope that the new subcommittee will open channels of communication among government agencies, industry, academia, and communities to resolve the environmental issues that affect Puerto Rico.

4.5 Presentation on Executive Order 13125

Mr. Lee informed the members of the NEJAC that President Clinton recently had issued Executive

Order 13125 on Asian Americans and Pacific Islanders. Mr. David O'Connor, Deputy Assistant Administrator, EPA Office of Administration and Resources Management (OARM), was unable to attend, Mr. Lee said. However, Ms. Marla Hendriksson, Special Assistant to the Director Office of Human Resources, EPA OARM, was to provide the report on the Executive order as well as the White House Initiative on those populations, he explained.

Ms. Hendriksson described Asian Americans and Pacific Islanders as an emerging population that is "slowly but surely" gaining political, economic, and community consciousness. In January 2000, Ms. Hendriksson stated Los Angeles, California, had established the first official "Thai Town" in the United States because 75 percent of all local businesses in that community are Thai-owned. Ms. Hendriksson also stated that the 2000 census had been the first time the Federal government had collected nationwide data on Asian Americans and Pacific Islanders. Previously, the population group, she explained, had been listed on the census form in the "Other" category, thereby creating a large data gap, she said.

The population group faces many challenges, she continued. For example, 75 percent of Asian Americans and Pacific Islanders in this country are foreign-born, and fifty percent do not speak English as their primary language, she continued. Ms. Hendriksson explained that EPA has found Asian Americans and Pacific Islanders are not involved because they believe they are not affected adversely by environmental and health problems. Rather, she said, they lack awareness of environmental health issues and refrain from exercising a political voice. The challenge of conducting sufficient outreach is made even more difficult, she noted, because many individuals in the population group have only limited proficiency in English.

Continuing, Ms. Hendriksson explained the significance of the particular Executive order. She stated that the order had been issued in an effort to improve the quality of life of Asian Americans and Pacific Islanders in this country through increased participation in Federal programs. It is the most significant and comprehensive Executive order ever issued for that minority group, she said. The Executive order also is comprehensive, she said, because it involves social, health, transportation, civil rights, commerce, and environmental services--the gamut of Federal programs.

The goals of the Executive order, she pointed out, are to (1) increase participation in Federal programs

in which the Asian American and Pacific Islander community is underserved; (2) to collect and maintain statistical data on such populations and subpopulations; (3) to increase the public-sector, private-sector, and community involvement in the health and well-being of Asian Americans and Pacific Islanders; and (4) to foster research and data collection on the health of the entire community. The White House Initiative on Asian Americans and Pacific Islanders, which evolved from the Executive order, established two distinct bodies, a private and a public sector group, she noted. The public-sector group, she explained, is made up of the deputy secretaries of various Federal agencies, and the private-sector group is the Presidential Advisory Commission, which is made up 15 Asian American and Pacific Islander leaders representing businesses and community groups.

Ms. Hendriksson then announced that EPA currently was conducting an inventory of all EPA activities that are related to Asian Americans and Pacific Islanders. Using the results of the inventory, she explained, EPA was to develop a implementation plan for fiscal year 2001 that would describe the future actions by which the Agency plans to address the needs of that particular population. She also explained that the two products will be examined, along with other information about relevant activities of other Federal agencies to determine the state of Asian Americans and Pacific Islanders in the United States.

Ms. Hendriksson requested that the NEJAC give greater emphasis to focus issues related to Asian Americans and Pacific Islanders in its deliberations. Concluding her remarks, Ms. Hendriksson identified several activities that she suggested the Federal government should implement: (1) conduct a needs assessment of the environmental and health effects on Asian Americans and Pacific Islanders; (2) understand the underlying socioeconomic and cultural dynamics of the population; (3) increase participation of the population in decision-making processes; (4) compile a directory of Asian American and Pacific Islander community groups and business associations; and (5) conduct additional outreach to such communities.

Mr. Yang urged that EPA continue to conduct outreach to Asian Americans and Pacific Islanders because it is an underserved community. However, he explained, there are several other important reasons to undertake such an effort. First, he explained, language barriers are a key issue to greater involvement and the delivery of services to Asian American and Pacific Islander communities because of the different levels of understanding in communities about benefits, government services,

and the dangers of toxic and hazardous chemicals. For example, he pointed out, a person who is unable to read a warning label is unable to take the necessary precautions the label prescribes.

In addition, Mr. Yang stressed the importance of addressing issues related to the consumption of contaminated fish. He expressed concern because many refugee, immigrant, and low-income communities rely on substance fishing to supplement their diets. Mr. Yang also emphasized the issue of occupational health, stating that minority workers are being targeted for jobs that involve the handling of toxic and hazardous chemicals. Ms. Miller-Travis asked whether there was a plan in place to keep the NEJAC informed about activities conducted under the White House initiative. Mr. Lee responded that OEJ currently was working on a strategy to continue to coordinate efforts. In addition, Mr. Lee explained, OEJ was working to arrange briefings for EPA environmental justice coordinators on the issue.

5.0 REPORTS OF THE SUBCOMMITTEES

On May 25, 2000, each subcommittee met for a full day. This section presents summaries of the action items and proposed resolutions developed during those discussions, as well as updates on the activities of the subcommittees. Appendix A of this meeting summary presents the full text of the resolutions that were approved by the Executive Council. Chapters three through eight present detailed summaries of the deliberations of each of the subcommittees.

5.1 Air and Water Subcommittee

Ms. Annabelle Jaramillo, Office of the Governor, State of Oregon and vice chair of the Air and Water Subcommittee of the NEJAC, reported on the activities of the Air and Water Subcommittee. Ms. Jaramillo requested that the Executive Council consider and approve a proposed resolution on mercury emissions. Mr. Whitehead explained that the proposed resolution requests that the NEJAC recommend to the EPA Administrator that the Agency make a determination to regulate mercury emissions from coal-fired electrical power plants. He also explained that coal-fired electrical power plants are the nation's largest source of mercury emissions and that such emissions are unregulated. In addition, Mr. Whitehead declared that such mercury emissions primarily affect people of color and indigenous populations because the emissions eventually contaminate fish tissue. The two populations, Mr. Whitehead pointed out, consume fish from contaminated lakes and rivers much more frequently than other populations. The members of

the Executive Council approved the resolution with one abstention.

Continuing, Ms. Jaramillo explained that the Air and Water Subcommittee was to create a joint work group with the Waste and Facility Siting Subcommittee to review EPA OSWER's draft guidance on reducing toxic loadings. She also stated that the members of the subcommittee had agreed to expand the subcommittee's work group on fish consumption to include members of the Indigenous Peoples Subcommittee. The work group, she said, would investigate the health effects on indigenous populations of the consumption of contaminated fish.

5.2 Enforcement Subcommittee

Mr. Cole requested that the Executive Council consider and approve a proposed resolution on multiple chemical sensitivity. Mr. Cole explained that multiple chemical sensitivity is a condition that affects thousands of people in which there has been some type of trigger exposure to a chemical that then makes people extremely susceptible to what other people would consider low-level exposures to chemicals. In those individuals, he continued, such exposures cause a variety of symptoms. The proposed resolution, Mr. Cole explained, requests that the NEJAC recommend that EPA work with other agencies to study the incidence of multiple chemical sensitivity in minority communities and low-income communities, especially those heavily affected by environmental pollutants. Mr. Goldtooth offered an amendment to the resolution to add tribes to the list of the affected populations. The Executive Council approved the resolution as amended.

Mr. Cole then discussed the proposed resolution on concentrated animal feeding operations (CAFO). He explained that, during public comment periods over a period of two years, the Executive Council and the Enforcement Subcommittee had heard extensive testimony about adverse health effects caused by the operations of CAFOs and environmental justice concerns related to them. Mr. Cole made several points about the resolution: (1) the proposed resolution represented only the beginning of the NEJAC's advice and recommendations to the EPA on CAFOs; (2) the Enforcement Subcommittee was to develop a report to the Agency that will provide recommendations; and (3) the resolution had been revised in light of a presentation on CAFOs made to the Air and Water Subcommittee.

Ms. Jane Stahl, Deputy Assistant Commissioner, Connecticut Department of Environmental Protection, expressed concern about the new points

in the resolution because of the language used, particularly the request to aggressively "crack down" on states. She suggested that the Executive Council postpone the vote on the resolution until the more extensive report Mr. Cole had referred to had been developed. Ms. Wood also expressed concern about how states were addressed. The NEJAC should encourage states to address environmental justice issues, she said, she believes that the tone of the resolution did not convey this message. Mr. Cole declared that he understood such concerns. He then stated his belief that the issues could be resolved in the planned report that was to set forth a stronger and broader policy statement. The members of the Executive Council approved the resolution on CAFOs, with two votes against it.

Mr. Cole then presented a resolution to the Executive Council to create a work group of the Enforcement Subcommittee to research and investigate, environmental justice issues related to Federal facilities, and provide recommendations to the NEJAC. The Executive Council approved the resolution by creating a work group of the Executive Council to address environmental justice issues at Federal facilities.

Mr. Cole then asked that Mr. Turrentine forward to the EPA Administrator a letter that addresses EPA's implementation of the clean fuels program. He noted that the Enforcement Subcommittee pointed out to OAR on several occasions that there are ways to undertake the process of retrofitting refineries, which most often are located in communities of color, that reduce emissions. It is predicted, Mr. Cole pointed out, that the retrofits that refineries currently are undertaking to produce cleaner fuels will increase emissions at those refineries. The Executive Council approved the request that Mr. Turrentine forward the letter to the EPA Administrator.

Ms. Shirley Pate, Office of Enforcement Capacity and Outreach, EPA OECA, and DFO of the Enforcement Subcommittee, then reported on the activities of the Enforcement Subcommittee. She began her presentation by stating that the Enforcement Subcommittee had met with Ms. Lowrance and received a commitment from Ms. Lowrance to involve the members of the subcommittee in various stages of OECA's strategic planning process.

The public health focus of the agenda addressed the general theme of identifying health data or indicators EPA should use to improve its enforcement targeting resources, continued Ms. Pate. She reported that the subcommittee also heard presentations from Dr.

Maureen Lichtveld, CDC; Ms. Juanita Burney, a nurse from Richmond County, Georgia; and Dr. Tim Aldrich, South Carolina Department of Environment and Control. All three presentations focused on improving health indicators, she noted.

In addition, Ms. Pate stated that the subcommittee had heard a presentation on CAFOs by Dr. Steve Wing, University of North Carolina, and Mr. Gary Grant, Concerned Citizens of Tillery County. The presentation, Ms. Pate explained, deepened the subcommittee's concern that environmental justice issues related to CAFOs should be addressed.

Ms. Pate concluded her report by stating that the members of the subcommittee had conferred with Ms. Goode about EPA's implementation of Title VI. The subcommittee, Ms. Pate stated, agreed to produce a report on Title VI that was to include a discussion of the difficulties encountered by communities that file administrative complaints under Title VI. The report also will provide a chronological description of EPA's lack of progress in the processing of Title VI cases, she said. The report also will make recommendations to the Agency for improvements in Title VI guidance, she added.

5.3 Health and Research Subcommittee

Dr. Payton reported on the activities of the Health and Research Subcommittee. In December 1999, the Health and Research Subcommittee had recommended that the May 2000 meeting of the NEJAC focus on public health issues related to environmental justice. As part of the subcommittee's agenda, an interagency forum was held to discuss how Federal agencies could better coordinate and collaborate to develop an integrated public health agenda, she reported.

Dr. Payton requested that the Executive Council consider and approve a resolution on the decision tree framework for community-directed environmental health assessment developed by the Working Group on Community Environmental Health Assessment of the Health and Research Subcommittee. She explained that the working group had met for the second time and developed recommendations related to community-directed environmental health assessments. She expressed her belief that the decision tree framework is an important tool that will help to empower and educate environmental justice communities about issues related to community environmental health assessment, intervention, and prevention strategies. The resolution also requested that the NEJAC recommend that EPA provide funding for the design

and development of the decision tree framework and requested that the terms of the work group members be extended to complete the framework. The members of the Executive Council voted to approve the resolution, with one abstention.

In addition, Dr. Payton stated that the members of the subcommittee were to be prepare for consideration by the Executive Council a resolution that would recommend that EPA include criteria in the Agency's permitting processes to protect communities that have comparatively poor health from the approval of the siting of additional pollution-releasing facilities in such communities. Dr. Payton also stated that the subcommittee was to develop a resolution that would recommend that EPA establish an effective national facility registry system for all operating facilities that emit hazardous chemicals.

Concluding her report, Dr. Payton announced that the subcommittee was to be develop a resolution to support the creation of a work group of the NEJAC to address issues of concern related to the Mossville community in Louisiana.

5.4 Indigenous Peoples Subcommittee

Mr. Goldtooth began the subcommittee report by requesting that the Executive Council consider and approve a proposed resolution recommending that the United States support the elimination of unintentional byproducts of dioxin. The proposed resolution, he explained, had three key points: (1) encourage EPA in its negotiation of the global treaty on persistent organic pollutants (POP) to support language in the treaty that emphasizes reduction, pollution prevention, and a gradual phase-out of dioxin-producing materials and technologies, with the ultimate aim the elimination of the dioxin; (2) request that EPA support language in the treaty that supports rapid phase-out of all remaining uses of PCBs and the cleanup of soils and sediments contaminated by PCBs and other POPs; and (3) request that the EPA treaty negotiation team consult with all American Indian and Alaskan Native tribes before and throughout the entire international negotiation process about the important issue that affects the health, welfare, environment, and overall survival of tribal nations in the United States and indigenous peoples throughout the world. Members of the Executive Council approved the resolution, with one abstention.

Ms. Jana Walker, Law Office of Jana L. Walker and member of the Indigenous Peoples Subcommittee of the NEJAC, then reported on the activities of the Indigenous Peoples Subcommittee. She announced that the subcommittee had agreed to coordinate with

the Waste and Facility Siting Subcommittee's work on two environmental justice issues that involve Native groups and tribes: the proposed Gregory Creek landfill, located near six Indian reservations, and the continued use of a bombing site on Nomans Island, near the Wampanoag Tribe of Massachusetts.

In addition, Ms. Walker stated that the subcommittee had distributed a revised draft of the Guide on Consultation in Public Participation with Tribes. She stated that the comments on the draft were due by August 15, 2000. She explained that the guide had been developed because of the unique political status of Indian tribes, their government-to-government relationship with the Federal government, and the Federal government's trust responsibility to them. The guide, she explained, is intended to help government agencies participate in a meaningful consultation process with tribes.

The Indigenous Peoples Subcommittee, she continued, also was to continue to coordinate with the International Subcommittee's follow-up efforts related to the Roundtable on Environmental Justice on the U.S./Mexico Border. The members of the subcommittee also had approved a letter addressed to Mr. Hill that reaffirms a request made by the subcommittee in 1998 that a meeting of the NEJAC be held in Alaska to address the wide range of issues of concern to Alaska Natives.

5.5 International Subcommittee

Mr. Garcia requested that the Executive Council approve the creation of two new work groups of the subcommittee. He requested that a work group be created to address environmental concerns related to the conditions that farm workers work under and that a second work group be created to ensure follow-up related to the Roundtable on Environmental Justice on the U.S./Mexico Border, so that recommendations developed at the meeting will be addressed. The Executive Council approved both work groups.

Mr. Cuevas then began the discussion of the activities of the International Subcommittee. He began by stating that the meeting had focused on issues related to the enforcement of pesticide regulations and the conditions related to the use of pesticides that farm workers must work under. The subcommittee, Mr. Cuevas explained, had heard presentations on improving the health of farm workers; the success story of Barrio Logan, San Diego, California; Lake Apopka, Florida and farm worker health; initiatives undertaken by the EPA Office of Prevention, Pesticides, and Toxic

Substances (OPPTS); and a report offered by EPA Region 10 on the effects of farm worker protection standards.

Mr. Yang continued the discussion of the activities of the International Subcommittee by addressing future agenda items. The subcommittee, he explained, had had a productive meeting with Mr. Hecht on areas within the responsibility of OIA in which the subcommittee can offer assistance. Those areas, he pointed out, range from events along the U.S./Mexico Border and potential work on OIA's influence on multilateral development banks to human rights issues and trade and the environment. Mr. Yang also stated that the subcommittee had conducted extensive discussion of significant follow-up issues related to the U.S./Mexico Border. Mr. Yang concluded his report by highlighting issues discussed during a dialogue session between the members of the subcommittee and the delegation from South Africa.

5.6 Waste and Facility Siting Subcommittee

Ms. Miller-Travis reported on the activities of the Waste and Facility Siting Subcommittee. Ms. Miller-Travis noted that the subcommittee and EPA OSWER remain committed to continue their work with the Waste Transfer Stations (WTS) Work Group of the subcommittee on the development of a draft status report, EPA's *Municipal Solid Waste Transfer Station Action Strategy*. She reminded the members of the Executive Council that, in March 2000, the NEJAC approved and forwarded to the EPA Administrator the work group's report, *The Regulatory Strategy for Siting and Operating Waste Transfer Stations*. Continuing, she explained that Mr. Timothy Fields, Jr., Assistant Administrator of EPA OSWER, had responded quickly to the recommendations set forth in the report of the work group. Included in the action strategy, she continued, are specific action items related to WTSs that EPA regions 2 and 3 should undertake.

In addition, she explained that the subcommittee had agreed to provide OSWER with points of contact to inform the subcommittee of OSWER's implementation of best management practices related to WTSs. One of the commitments included in the action strategy is the development of a guide to best management practices related for WTSs for local and state governments, said Ms. Miller-Travis.

The members of the Waste and Facility Siting Subcommittee, she explained, also recommended to the NEJAC that a mechanism be developed to ensure the participation of the NEJAC in EPA's development of risk assessments.

Continuing, Ms. Miller-Travis informed the Executive Council of a request the subcommittee had received from communities living in East Liverpool, Ohio near an incinerator operated by WTI. The members of the subcommittee had asked Mr. Michael Shapiro, Deputy Assistant Administrator of EPA OSWER, to specifically address the concerns expressed by the community and to work with EPA Region 5 to ensure that compliance issues related to the ongoing operations of the incinerator in East Liverpool, Ohio are resolved, she said. In addition, she continued, the members of the subcommittee also had received assurances from EPA regions 4 and 6 that they would develop statistical information on permit compliance and enforcement actions taken in the states of Alabama, Georgia, Mississippi, and Texas and that they would provide that information to the Alabama African-American Environmental Justice Action Network and the Southern Organizing Committee for Economic and Social Justice.

Continuing her report, Ms. Miller-Travis explained that the subcommittee would address environmental justice concerns associated with issues related to Federal facilities that had been raised by the Wampanoag Tribe of Massachusetts regarding operations conducted by the Department of the Navy (Navy) at Nomans Island, Massachusetts. She explained that the Office of the Secretary of the Environment of the State of Massachusetts and the Massachusetts Department of Environmental Protection had requested that the subcommittee address, in conjunction with EPA, environmental justice issues related to the ongoing use of Nomans Island as a bombing site.

Ms. Miller-Travis then addressed three items related to Mossville, Louisiana. Members of the subcommittee had agreed to meet with representatives of EPA and ATSDR to formulate a plan for conducting a public health response to the exposure investigation of dioxins conducted by ATSDR at Mossville, Louisiana, she said. The subcommittee, she explained, also had agreed to work with staff of EPA Region 6 and the residents of Mossville to resolve various issues of concern related to the community. Finally, Ms. Miller-Travis stated that the subcommittee would recommend that a resolution be developed to support the creation of a work group of the NEJAC to assist ATSDR and EPA in ensuring that government agencies follow environmental justice public participation principles and to focus on the resolution of issues of concern to the community of Mossville, Louisiana.

Concluding her report, Ms. Miller-Travis requested that the members of the Executive Council obtain a copy of EPA's *Social Aspects of Siting Resource*

Conservation and Recovery Act [RCRA] Hazardous Waste Facilities. She recommended that the members and the public review the document.

6.0 FOLLOW-UP ON ISSUES RELATED TO ENVIRONMENTAL JUSTICE AND THE ISSUANCE OF PERMITS

In its continuing efforts to provide independent advice to the EPA Administrator in areas related to environmental justice, the NEJAC focused its fourteenth meeting held in December 1999 in Arlington, Virginia on permitting and environmental justice. As chair of the special work group created by the NEJAC on permits, Ms. Miller-Travis announced that through a mail ballot conducted before the current meeting, the members of the Executive Council had approved a report that provided recommendations to the EPA Administrator for integrating the principles of environmental justice into the permitting process. She enumerated the crucial recommendations included in the report: (1) the need to clarify the legal authority the permit writer has to address environmental justice issues in permitting; (2) the need to clarify substantive permit criteria, including cumulative effects, degree of risk, community demographics and disproportionality of risk; (3) the need to consider community involvement in the decision-making process as it is related to permitting decisions; (4) the need to ensure enforcement of permits; and (5) the need to consider the relationship between land use zoning and environmental decisions.

Ms. Wood asked how comments she had submitted on the report had been integrated into the document. Mr. Turrentine explained that he and OEJ had received the comments after the report had been completed. Ms. Wood requested that her comments be entered into the record of the NEJAC. Mr. Hill responded that the letter would be entered into the record.

7.0 CLOSING REMARKS

Mr. Hill explained that many communities lack resources to address environmental justice issues. Therefore, he announced, OEJ had established the Community Internship Program to supervise student training opportunities in grassroot organizations to learn how these organizations address environmental problems. Mr. Hill then identified the 15 organizations students are training with. Exhibit 1-22 lists these 15 organizations.

Exhibit 1-22

**U.S. ENVIRONMENTAL PROTECTION
AGENCY ENVIRONMENTAL JUSTICE
COMMUNITY INTERN PROGRAM FOR
SUMMER 2000**

This list presents the community organizations that received grants to provide students training opportunities.

- O.N.E./C.H.A.N.E., Hartford, Connecticut
- Comite Timon de Calidad Ambiental, Manati, Puerto Rico
- Jesus People Against Pollution, Columbus, Mississippi
- Southern Organizing Committee for Economic and Social Justice, Atlanta, Georgia
- Harambee House/Citizens for Environmental Justice, Savannah, Georgia
- Indigenous Environmental Network, Bemidji, Minnesota
- People Organized in Defense of Earth and her Resources, Austin, Texas
- Citizens Against Contamination, Mossville, Louisiana
- Front Range Earth Force, Denver, Colorado
- Colorado's People's Environmental and Economic Network, Denver, Colorado
- Native Action, North Cheyenne Indian Reservation, Lame Deer, Montana
- International Institute for Indigenous Resource Management, Denver Colorado
- Red Rock Foundation, Carefree, Arizona
- Resources for Sustainable Communities, Bellingham, Washington

Mr. Lee concluded the meeting of the NEJAC by announcing that approximately 540 participants had attended. Mr. Lee pointed out the "real connection" experienced during the meeting between government agencies and communities that have environmental justice concerns. He also expressed his hope that lessons learned in the planning for the meeting will be applied in preparing for future meetings. He concluded with an announcement that the December 2000 meeting of the NEJAC to be held in Arlington, Virginia, was to focus on interagency implementation of environmental justice.

**8.0 SUMMARY OF APPROVED
RESOLUTIONS AND LETTERS
FORWARDED TO THE
U.S. ENVIRONMENTAL PROTECTION
AGENCY ADMINISTRATOR**

This section presents a summary of the letter to the EPA Administrator and summarizes resolutions that were discussed by the subcommittees and approved by the Executive Council of the NEJAC during the meeting. Appendix A provides the full text of each resolution.

The NEJAC approved the following resolutions:

- The NEJAC recommends that EPA address environmental justice issues related to POPs.
- The NEJAC supports EPA's efforts to regulate mercury emissions from coal-fired power plants.
- The NEJAC recommends that EPA work with other agencies to study the incidence of multiple chemical sensitivity in minority communities and low-income communities, especially those heavily impacted by environmental pollutants.
- The NEJAC urges EPA to commit additional resources to remedy pollution and environmental justice issues associated with the siting and expansion of large-scale CAFOs in minority and low-income communities and in Indian country.
- The NEJAC request that EPA approve the creation of a work group of the Executive Council of the NEJAC to address environmental justice issues related to Federal facilities.
- The NEJAC request that EPA approve the request of the Health and Research Subcommittee to extend the term of the members of the Working Group on Community Environmental Health Assessment to maintain continuity of the development of the Decision Tree Framework.

The NEJAC also approved the following letter to the EPA Administrator:

- The NEJAC urges EPA to address potential health effects caused by the promulgation of Tier 2 regulations.

The NEJAC also approved the following work groups of the International Subcommittee to address issues related to environmental justice:

- Farmworker Work Group of the International Subcommittee to address environmental concerns related to the conditions that farmworkers work under.
- Follow-up to the International Roundtable on Environmental Justice Work Group of the International Subcommittee to continue to address recommendations developed at the roundtable meeting held in August 1999 in National City, California.

The members of the NEJAC also approved the Decision Tree Framework for Community-Directed Environmental Health Assessment that was developed by the Working Group on Community Environmental Health Assessment of the Health and Research Subcommittee.

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MEETING SUMMARY

of the

AIR AND WATER SUBCOMMITTEE

of the

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

**May 25, 2000
ATLANTA, GEORGIA**

Meeting Summary Accepted By:



**Alice Walker
Office of Water
U.S. Environmental Protection Agency
Co-Designated Federal Official**



**Wil Wilson
Office of Air and Radiation
U.S. Environmental Protection Agency
Co-Designated Federal Official**



**Michel Gelobter
Chair**

**CHAPTER THREE
SUMMARY OF THE
AIR AND WATER SUBCOMMITTEE**

1.0 INTRODUCTION

The Air and Water Subcommittee of the National Environmental Justice Advisory Council (NEJAC) conducted a one-day meeting on Thursday, May 25, 2000, during a four-day meeting of the NEJAC in Atlanta, Georgia. Dr. Michel Gelobter, Graduate Department of Public Administration, Rutgers University, continues to serve as chair of the subcommittee. Ms. Alice Walker, U.S. Environmental Protection Agency (EPA) Office of Water (OW), and Dr. Wil Wilson EPA Office of Air and Radiation (OAR), continue to serve jointly as the Designated Federal Officials (DFO) for the subcommittee. Exhibit 3-1 presents a list of the members who attended the meeting and identifies those members who were unable to attend.

This chapter, which provides a summary of the deliberations of the Air and Water Subcommittee, is organized into five sections, including this *Introduction*. Section 2.0, *Remarks*, summarizes the opening remarks of the chair of the subcommittee. Section 3.0, *Review of the December 1999 Meeting Summary*, summarizes the comments made by members of the subcommittee on the preliminary draft of the summary of the subcommittee's meeting in December 1999. Section 4.0, *Presentations and Reports*, presents an overview of each presentation and report delivered during the subcommittee meeting, as well as a summary of the questions asked and comments offered by members of the subcommittee. Section 5.0, *Resolution and Significant Action Items*, summarizes the resolution forwarded to the Executive Council of the NEJAC for consideration and the significant action items adopted by the subcommittee.

2.0 REMARKS

Dr. Gelobter began the subcommittee meeting by welcoming the members present and Ms. Walker and Dr. Wilson to the third meeting of the Air and Water Subcommittee. He introduced Ms. Annabelle Jaramillo, Citizens' Representative, Oregon Office of the Governor, as the new vice-chair of the subcommittee. He announced that Ms. Jaramillo would serve as subcommittee chair should it be necessary for him to leave the meeting during the day. Dr. Gelobter then asked the members of the subcommittee and speakers at the meeting table and the representatives of EPA in the audience to

Exhibit 3-1

AIR AND WATER SUBCOMMITTEE

**Members
Who Attended the Meeting
May 25, 2000**

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

Dr. Bunyan Bryant
Ms. Daisy Carter
Ms. Rosa Hilda Ramos
Mr. Leonard Robinson
Mr. George Smalley*
Mr. Damon Whitehead
Ms. Marianne Yamaguchi

**Members
Who Were Unable to Attend**

Dr. Elaine Barron
Ms. Clydia Cuykendall
Dr. Daniel Greenbaum

* *Mr. George Smalley served as a proxy for Ms. Clydia Cuykendall*

introduce themselves. Mr. George Smalley, Manager, Constituency and Community Relations, Equiva Services LLC, served as a proxy for Ms. Clydia Cuykendall, JC Penney. Dr. Carlos Padin, School of Environmental Affairs, The Metropolitan University and chair of the Puerto Rico Subcommittee of the NEJAC, a new member of the NEJAC, was observing the various subcommittees. Dr. Gelobter concluded his opening remarks by stating that, although meetings of the subcommittee are not fully open to audience participation, members of the audience would be given the opportunity to ask questions if time permitted and if an issue was pressing.

3.0 REVIEW OF THE DECEMBER 1999 MEETING SUMMARY

Members of the subcommittee began by reviewing the preliminary draft of the summary of the December 1999 meeting of the subcommittee.

To clarify a point of information, Ms. Dana Minerva, Deputy Assistant Administrator, EPA OW, stated that Mr. Will Hall, EPA OW, had made a presentation on concentrated animal feeding operations (CAFO) during the December 1999 meeting of the subcommittee.

Ms. Daisy Carter, Director, Project Awake, asked about the status of EPA's response to her request, cited at the bottom of page 3-8 of the preliminary draft, that called for EPA to develop a time frame for accomplishing its goals under its economic incentive program (EIP), programs state agencies can implement under the Clean Air Act (CAA) to improve air quality. EPA did not provide a response. Ms. Jaramillo asked that Ms. Carter's request be added to the list of action items for the present meeting of the subcommittee.

Dr. Gelobter moved that revisions discussed be incorporated into the draft summary. Ms. Marianne Yamaguchi, Director, Santa Monica Bay Restoration Project, seconded the motion, and the motion passed.

4.0 PRESENTATIONS AND REPORTS

This section summarizes the presentations made and reports submitted to the Air and Water Subcommittee, including discussions that took place during a joint session with the Waste and Facility Siting Subcommittee of the NEJAC on reducing toxic loadings.

4.1 Public Utilities

Members of the subcommittee continued discussions initiated during the December 1999 meeting of the subcommittee about the effects and regulation of public utilities, as related to environmental justice.

Dr. Gelobter stated that Dr. Daniel Greenbaum, Health Effects Institute, is the chair of the subcommittee's Public Utilities Work Group. On behalf of Dr. Greenbaum, Dr. Gelobter then presented an update on the progress of the work group. He summarized the discussion of public utilities that took place during the December 1999 meeting of the subcommittee. He reported that nationwide, 80 percent of the harmful effects on air

quality result from energy use. Dr. Gelobter stated that the primary focus of the work group is to involve the NEJAC in policy decisions associated with the regulation of air emissions from public utilities. He added that a secondary goal of the work group is to examine the local, regional, and national environmental effects of the energy industry on environmental justice communities. Dr. Gelobter reported that Dr. Greenbaum and the Public Utilities Work Group are committed to an aggressive agenda.

Dr. Gelobter then introduced two presentations related to public utilities.

4.1.1 Coal-Fired Power Plants in Georgia

Ms. Felicia Davis Gilmore, Director, Georgia AirKeepers Campaign Director, Ozone Action, and Ms. Connie Tucker, Executive Director, Southern Organizing Committee for Economic and Social Justice and former member of the Waste and Facility Siting Subcommittee of the NEJAC, presented concerns about the health and environmental effects of coal-fired power plants in Georgia.

Ms. Tucker stated that the Southern Organizing Committee for Economic and Social Justice represents communities that have environmental justice concerns in Georgia that are affected by dirty power plants. She said that the organization felt compelled to become involved in the national clean air campaign because asthma is an epidemic among African Americans and Latino Americans. She reported that Atlanta is in noncompliance with the requirements of the CAA. She stated that, on certain days, local citizens actually can smell the ozone in the air. She then introduced Ms. Gilmore, a long-time community-based activist, to make a presentation on the effects of public utilities on the health of environmental justice communities in Georgia.

Ms. Gilmore stated that the right to breathe clean air is among the fundamental rights of humans. She stated that the citizens of Georgia are primarily concerned about cars and their contributions to air pollution; there is little concern about the effects of power plants on air pollution, she pointed out. She reported that coal-burning power plants in Georgia play a significant role in the state's "smog crisis."

Ms. Gilmore discussed the current levels and health effects of pollution from coal-fired power plants, citing the following statistics: 23 percent of nitrogen oxides that form smog, 82 percent of sulfur dioxide that form particulate pollution and acid rain, 42

percent of the greenhouse gas carbon dioxide, and approximately one-third of toxic mercury emissions in Georgia are generated by coal-fired power plants. She reported that Georgia derives 64 percent of its electricity from 11 coal-fired power plants in the state. Nuclear power (30 percent), hydroelectric power (5 percent), natural gas (0.4 percent), and oil (0.3 percent) make up the remaining power sources in Georgia.

Ms. Gilmore said that coal-fired power plants pollute at rates up to nine times higher than the CAA allows for new power plants. She explained that, when the CAA was being revised, industry lobbyists convinced members of Congress that power plants in existence before 1980 were to be phased out soon and replaced with more efficient systems. She stated that the industry lobbied for exemption from requirements for the installation of the best available technology, which consisted of selective catalytic reduction systems for nitrogen oxides and scrubbers for sulfur dioxide. However, she reported, all 11 coal-fired power plants in Georgia are still in operation more than 20 years later. She estimated that, if Georgia's existing coal-fired power plants were to meet the same standards imposed upon new coal-fired power plants, emissions of nitrogen oxide and sulfur dioxide would be reduced by 68 percent and 78 percent, respectively. She stated that those reductions in emissions were equivalent to the reductions that would be achieved by removing 4.8 million cars from the road.

Ms. Gilmore then discussed a comparison of the cost of cleaning up the existing coal-fired power plants in Georgia with the cost associated with maintenance of the status quo. Acknowledging that the way a company chooses to spend its money is rooted in its priorities, she described Southern Company, owner or co-owner of the 11 coal-fired power plants in Georgia. The company, she said, has spent over \$3.4 billion dollars on investment outside its traditional southeast service area and asked the Public Service Commission to raise its rates so that the company could spend up to \$4 billion more. Ms. Gilmore explained that the Public Service Commission regulates the rates that customers pay for utilities. She stated that the money could have been invested in statewide cleanup. Ms. Gilmore then reported that clean air specialists had estimated a conservative cost for bringing Georgia's 11 coal-fired power plants up to modern-day standards of approximately \$156 million per year for 15 years for nitrogen oxide controls and \$222 million per year for 15 years for sulfur dioxide controls. She added that, in 1999, Southern Company reported a revenue of \$11.4 billion and a net income of \$977 million.

Ms. Gilmore then reported on the estimated cost to society if the existing coal-fired power plants are not cleaned up. According to Research Atlanta, an independent public policy group, the cost of nonattainment of Federal air quality standards for ozone and particulates in the Atlanta area will be higher than the cost of cleanup. She then cited several reasons to support that finding, such as poor air quality makes Georgia less attractive to new businesses and limits the state's prospects for economic development. The economy also suffers when the benefits of new technology, such as renewable energy are ignored, she continued. She stated that the decrease in agricultural productivity as a result of high levels of ozone in Georgia is estimated to be draining \$250 million from Georgia's economy each year, adding that health costs also are high. It is estimated, she pointed out, that billions of dollars included in the nation's annual health costs are associated with outdoor air pollution. Ms. Gilmore added that other health costs associated with air pollution include increases in health-care insurance premiums because of the increasing number of visits to emergency rooms and doctors' offices and more widespread use of asthma medications.

Ms. Gilmore stated that the solution to such problems must be arrived at on the Federal level. She reported that the proposed Clean Smokestacks Act of 1999 is the most comprehensive bill so far that addresses the air emissions problems related to coal-fired power plants. She explained that the act mandates that 30-year-old power plants meet the standards under the CAA that govern new power plants. It also sets standards for mercury and carbon dioxide, which currently are unregulated under the CAA, she said. She stated that Representatives John Lewis (D-Ga.) and Cynthia McKinney (D-Ga.) are co-sponsors of the bill. She asked that members of the subcommittee and the audience also urge their representatives to support the legislation.

Ms. Gilmore also discussed the need for a public education campaign to inform lower-income and minority communities about the effects of coal-fired power plants in Georgia. She urged the subcommittee to pass a resolution to support such a campaign. She explained that many families are unaware of the health effects because they cannot actually see the pollution.

Ms. Rosa Hilda Ramos, Community Leader, Community of Cataño Against Pollution, asked whether the proposed Clean Smokestacks Act applies to oil-fired power plants. Ms. Gilmore

explained that the bill pertains exclusively to coal-fired power plants.

Ms. Eileen Gauna, Professor of Law, Southwestern University of Law, asked how many of the 11 coal-fired power plants in Georgia are located in or near low-income communities of color. She also asked which kind of air pollution – including nitrogen oxide, sulfur oxide, and carbon dioxide pollution – have localized effects. Third, Ms. Gauna asked whether power plants continue operating by identifying process changes as maintenance and repair, rather than modifications.

In response to Ms. Gauna's first question, Ms. Gilmore stated that her organization had been examining the demographics of communities in the vicinity of the power plants. She stated that, to date, the results of the examination had shown no disparate effect of air pollution from the coal-fired power plants on environmental justice communities. She said that the entire population seems to be affected equally by the pollution. That fact, she noted, is a "wonderful twist to the environmental justice opportunity" because it brings together traditional environmental groups and environmental justice groups. Ms. Gilmore did acknowledge a disparity in rates of asthma in minority communities because such groups generally experience a higher incidence of respiratory problems than higher-income groups.

Mr. John Seitz, Director, EPA OAR at Research Triangle Park, explained that the existing power plants have grandfathered rights and therefore are not required to meet many current standards under the CAA. He pointed out that EPA does not have the authority to shut down power plants. However, he noted, EPA can mandate the use of best available technologies to mitigate air pollution.

Ms. Yamaguchi stated that, in Los Angeles, smog reports are issued like weather reports. She asked Ms. Gilmore about the reporting of air pollution in Atlanta. Ms. Gilmore said that similar advisories are issued in Atlanta, but that knowledge in the lower-income communities about the health problems associated with those advisories is insufficient. She added that more affluent residents relocate away from the city or are sufficiently aware of the problem to stay indoors when such advisories are issued. Families in lower-income communities, on the other hand, often are not able to relocate to an area where the air is cleaner or are unaware of the health problems air pollution causes, she said. Ms. Gilmore reemphasized her organization's position that lower-income communities must be educated about the health problems associated with air pollution.

Dr. Gelobter suggested to Ms. Gilmore that Georgia Air Keepers participate in the subcommittee's Public Utilities Work Group. Ms. Gilmore agreed. Dr. Gelobter then stated that a public education campaign on coal-fired power plants should be on the work group's agenda. Mr. Damon Whitehead, Earth Conservation Corps, referred to a mercury study by the National Academy of Sciences (NAS) that Mr. Tom Goldtooth, Indigenous Environmental Network and chair of the Indigenous Peoples Subcommittee of the NEJAC, had discussed during the meeting of the Executive Council of the NEJAC on the previous day. Mr. Whitehead requested that the Public Utilities Work Group obtain a report on that study. Dr. Bunyan Bryant, Professor, School of Natural Resources and Environment, University of Michigan, requested a copy of the Clean Smokestacks Act of 1999 that Ms. Gilmore had discussed.

4.1.2 Regulation of Mercury Emissions from Coal-Fired Power Plants

Ms. Ellen Brown, EPA OAR, asked the members of the subcommittee for their views on whether EPA should regulate mercury emissions from coal-fired power plants. She reported that EPA is required to make a finding no later than December 15, 2000, on whether it is appropriate and necessary to regulate hazardous air pollutants (HAP), including mercury, from coal-fired power plants. She stated that, if EPA decides to regulate, the Agency faces a deadline under law to propose a regulation by December 2003. She added that a final regulation would be issued in December 2004 and implemented fully by the end of 2007.

Ms. Brown presented some background information about the issue of whether mercury emissions from coal-fired power plants should be regulated. In February 1998, she reported, EPA published a report to Congress on HAPs generated by electric power plants. In the report, EPA identified mercury emissions from coal-fired power plants as the HAP of greatest concern as a public health issue. Continuing, Ms. Brown stated that coal-fired power plants are the largest source category of mercury emissions in the United States, accounting for one third of anthropogenic emissions to the air. Mercury emissions are transported through the air and deposited to water and land, she explained. Once mercury enters the water, either through air deposition, run-off from the land, or directly, it can bioaccumulate in fish and animal tissue as methyl mercury, a highly toxic form of mercury, she said. Ms. Brown reported that human exposure to mercury occurs primarily through consumption of contaminated fish. Exposure to high levels of

mercury has been associated with serious neurological and developmental effects in humans, she pointed out, noting that EPA disseminates information about mercury to the public primarily through fish consumption advisories.

Ms. Brown stated that, beginning in 2000, EPA is requiring electric utilities to report their mercury emissions to the Toxics Release Inventory (TRI). She explained that, in the past, few such facilities have reported mercury releases to the TRI because the reporting threshold was too high to capture releases from many facilities.

Ms. Brown stated that, because the decision that EPA must make this year will not require a regulation, there was to be no public comment period. However, she asked that the subcommittee provide comments to assist EPA in making the decision. In clarification, Dr. Gelobter stated that EPA merely wants a simple “yes” or “no” recommendation from the subcommittee. Mr. Seitz added that the members of the subcommittee have an opportunity to share their knowledge about mercury and share their views with EPA as part of the Agency’s data collection process. Dr. Bryant observed that EPA already has the data it needs, stating that he did not understand why EPA needs help in making the decision.

Ms. Carter asked why, if mercury emissions are not a problem, EPA is alarming citizens about mercury. She added that, if mercury does pose a threat of detrimental effects on the health of citizens, EPA should not require a commitment on the part of the subcommittee for the need to regulate mercury emissions. Mr. Seitz responded that EPA must consider science and listen to all views. He emphasized that there are numerous stakeholders who have different views about whether mercury emissions are a problem. Ms. Carter added that, at one time, dioxin was not regarded as a problem, but now it is regarded as highly toxic. She expressed anticipation that a similar change in views will occur in relation to the issue of mercury emissions.

Ms. Jaramillo stated her understanding that the impetus for EPA is not to determine whether mercury is a problem. Instead, she said, EPA wants to hear about the health effects of mercury on people around the country. Ms. Jaramillo noted that the mercury issue is “already on the table.”

Ms. Minerva stated that the effects of mercury emissions are disproportionate because certain populations eat more fish than other groups. Dr. Gelobter agreed. He then stated that, while the

locations of mercury emission sources do not cause disproportionate effects, the health effects are disproportionate as a result of higher fish consumption levels among certain groups.

Mr. Whitehead moved that the subcommittee adopt a resolution to support EPA’s regulation of mercury emissions from coal-fired power plants, adding that the decision whether to regulate mercury was “a no-brainer.” Dr. Gelobter agreed that the subcommittee should adopt Mr. Whitehead’s suggestion. Ms. Yamaguchi also stated that she hoped the subcommittee would adopt a strong resolution supporting EPA’s regulation of mercury emissions. She asked that EPA report to the subcommittee on its decision on the matter at the next meeting of the NEJAC.

Mr. Whitehead agreed to draft the resolution to urge EPA to regulate mercury emissions from coal-fired power plants. Dr. Gelobter told the representatives of EPA that the subcommittee also would like to be involved actively in the process after the determination has been made, including involvement in rulemaking. Mr. Whitehead added that, in addition to urging EPA to make a positive decision to regulate mercury emissions and becoming involved in subsequent rulemaking, the subcommittee would like some assurance that the science (for example, the results of NAS research on mercury) will consider environmental justice issues.

4.1.3 Power Plants in Puerto Rico

Dr. Gelobter reminded the members of the subcommittee about the resolution concerning EPA’s regulation of power plants in Puerto Rico that was approved by the Executive Council at the December 1999 meeting. Ms. Ramos said that states and territories have the alternative to choose which strategy to use in dealing with air pollution in nonattainment areas. She reported that Puerto Rico had chosen a sulfur-free fuel strategy that requires the use of 1.5 percent sulfur fuel. She stated that Puerto Rico had eliminated limitations on emissions that are set forth in the CAA. In the resolution, she reminded the members of the subcommittee, the NEJAC had recommended that EPA review Puerto Rico’s strategy to reduce toxic air emissions. Ms. Ramos expressed her dissatisfaction with the response of EPA Region 2, stating that the Agency had made false statements about the issue. She asked that the NEJAC arrange an urgent meeting with Mr. Seitz; Mr. Robert Brenner, Acting Deputy Assistant Administrator, EPA OAR; and representatives of EPA Region 2, observing that the issue easily could prompt a lawsuit. Ms. Ramos asserted that she and her fellow Puerto Ricans were

ready to file suit but would prefer to resolve the conflict otherwise. She added that she has evidence that EPA Region 2 had misled the citizens of Puerto Rico on the issue. Dr. Gelobter asked that the subcommittee's Public Utilities Work Group help organize the dialogue.

4.2 Concentrated Animal Feeding Operations

The subcommittee heard presentations on the environmental and health effects of CAFOs. The subcommittee submitted to the Executive Council for consideration a proposed resolution, developed jointly with the Enforcement Subcommittee of the NEJAC, that recommends that EPA commit additional resources to the regulation of CAFOs.

4.2.1 U.S. Environmental Protection Agency and the U.S. Department of Agriculture Regulation of Concentrated Animal Feeding Operations

Mr. Louis Eby, Attorney-Advisor, Permits Division, EPA Office of Wastewater Management, provided information about CAFOs, the proposed National Pollutant Discharge Elimination System (NPDES) permitting guidance on the regulation of CAFOs, and the joint EPA and U.S. Department of Agriculture (USDA) unified national strategy for animal feeding operations (AFO).

He explained that under 40 Code of Federal Regulation (CFR) 122.23 and Appendix B, CAFOs include all AFOs having more than 1,000 animal units, as well as all AFOs having more than 300 animal units, if such a facility has an artificial conveyance or discharges directly into water bodies that cross the property. In addition, Mr. Eby stated that a CAFO is exempted if the discharge occurs only during a 25-year, 24-hour storm event. Mr. Eby then explained that the primary problems associated with CAFOs are overenrichment of a water body, pathogens, and contamination of drinking water sources. He reported that some 80 percent of CAFOs are located in just 16 states: Alabama, Arkansas, California, Delaware, Georgia, Indiana, Iowa, Maryland, Minnesota, Mississippi, Nebraska, North Carolina, Oklahoma, Pennsylvania, Texas, and Virginia. He added that, of the more than 375,000 AFO facilities in the United States, almost 13,000 are classified as CAFOs.

Mr. Eby described EPA's NPDES permitting guidance proposed in August 1999, noting that the guidance is expected to be made final by late spring 2000. The guidance states that CAFOs that have a potential to discharge must apply for an NPDES permit that addresses land application of waste at

the facility. The guidance also specifies that CAFOs are to develop comprehensive nutrient management plans (CNMP) that ensure compliance with the requirement for no discharge, except in a 25-year, 24-hour storm.

Mr. Eby also described the EPA-USDA unified national strategy for AFOs, which focuses on protection of water quality. The strategy includes USDA technical guidance on developing CNMPs and revises NPDES permitting rules and effluent limitation guidelines to address CAFOs. Mr. Eby stated that the proposed revised regulations are expected to be made final by December 2000, with final regulations to be issued two years thereafter.

Mr. Eby stated that, to support EPA OW in issuing the NDPEs guidance and implementing the EPA-USDA strategy, it is important to identify where CAFOs are located. He referred to the proposed NEJAC resolution that was to be discussed further and presented some preliminary comments on several provisions of the proposed resolution, as follows:

- With regard to the suggestion of a moratorium on all animal waste lagoons and land application fields, Mr. Eby stated that EPA has no regulatory authority to declare such a moratorium. While EPA is revising its regulations to include more protective standards, it cannot restrict all land applications. He emphasized the distinction between good agricultural practices and discharge practices, stating that it is possible to operate animal waste lagoons in an acceptable manner that incorporates good farming practices.
- In response to the concern expressed that EPA is issuing permits to facilities that are not applying manure properly, Mr. Eby stated that EPA is focusing on facilities that have the potential to discharge.
- With regard to regulation of poultry litter, Mr. Eby said that EPA will include such provisions in its guidance, specifically related to the application of dry poultry litter on land.
- With regard to siting requirements to protect waterways, he explained that EPA generally does not dictate where facilities can be located. However, he said, in its guidance, the Agency will attempt to relate the location of facilities to environmental effects.
- With regard to the expansion of public notice and public comment opportunities in the permit

application process for CAFOs, he stated that EPA included such expanded efforts into the guidance at specific points in the application process.

- Referring to the call for unannounced inspections, Mr. Eby stated that EPA already conducts such inspections.
- With regard to the use of new technologies, he stated that revised regulations to be proposed in December 2000 will encourage the use of new technologies to mitigate the effects on the environment of discharges from CAFOs.
- With regard to new regulations to address new land uses for areas that are phased out of CAFO use, he stated that EPA is examining options to rededicate those lands.
- With regard to the suggestion that new regulations impose stringent penalties for noncompliance, Mr. Eby explained that the current regulations allow states to impose a \$25,000-per-day fine.

4.2.2 Joint Resolution on Concentrated Animal Feeding Operations

Ms. Nan Freeland, Natural Resources Leadership Institute and a proxy member of the Enforcement Subcommittee of the NEJAC, made a presentation on CAFOs located in North Carolina. She also described the latest proposed draft resolution jointly developed by the Enforcement and Air and Water subcommittees, which urges EPA to commit more resources to the regulation of CAFOs.

Ms. Freeland stated that she had noticed a parallel between energy and utility companies and large agricultural companies in North Carolina. She said that those large businesses are wealthy and have easy access to members of Congress. They have a strong voice in Congress, while smaller community groups only have forums like the NEJAC to express their concerns, she noted.

Ms. Freeland referred to the proposed joint resolution on CAFOs prepared by the Air and Water and Enforcement subcommittees. She said that the resolution addresses most of the problems associated with CAFOs. Specifically, she reported, North Carolina has an unprecedented history of large swine operations. She said that those facilities pose the threat of a variety of adverse health effects, ranging from bad odor to groundwater contamination. She stated that most people in North Carolina depend on well water. Therefore, she

pointed out, any amount of contamination in the groundwater would compromise the quality of their drinking water. Ms. Freeland added that most of the CAFOs in North Carolina are located in the eastern part of the state, where the water table is generally high and the wells therefore are not very deep. She explained that any seepage or leaching from the waste lagoons likely would easily enter the groundwater.

Ms. Freeland then introduced Dr. Steve Wing, Department of Epidemiology, University of North Carolina-Chapel Hill, who conducted a study which found that CAFOs generally are located near African American churches and schools. Ms. Freeland explained that, in the south, having a CAFO near a church is tantamount to having one in a backyard, since churches play a significant role in people's lives. The church, she said, is a community center for people who live in rural areas.

Dr. Wing then described the animal waste lagoons and how they are used. The animal waste is flushed into open pits surrounded by dams. Because the pits will overflow during heavy rainfall, farmers must empty the pit when rain is forecast, he continued. In such cases, the raw, untreated waste is applied directly to the fields. The fields usually are not lined because, in North Carolina, many fields were once wetlands that were drained by subsurface pipes, he explained. As a result, moisture from the fields literally is piped to surface water bodies, he said.

Dr. Wing then reported that, in Fall 1999, the North Carolina Department of the Environment and the Department of Natural Resources allowed farmers to apply significant quantities of waste to their fields because of the series of hurricanes that had occurred at the time. Environmental groups brought lawsuits against the state, he continued, but the state allowed the North Carolina Pork Council to mount a defense on its behalf. Dr. Gelobter commented that the situation described by Dr. Wing appeared to be a case of complete negligence on the part of the state. He asked that the CAFO resolution reflect two levels of enforcement, specifically enforcement against negligence by states and enforcement by Federal authorities.

Ms. Freeland commended EPA for its efforts to address the issue, but stated that the guidance should be strengthened. She expressed her opinion that EPA's revised permitting regulations fail to meet the objectives of curbing the water pollution problems associated with CAFOs. She urged EPA to pass permitting guidance that at least requires regular testing of groundwater and surface water. She also urged that monitoring of odor and use of

buffer strips around land application fields to protect the neighboring communities be included in regulations.

Ms. Minerva responded that EPA's enforcement program had been rigorous in meeting its responsibilities. She referred to the efforts of Mr. Samuel Coleman, Director, Compliance Assurance and Enforcement Division, EPA Region 6, in Oklahoma. Mr. Coleman then reported that, two weeks earlier, EPA had performed inspections at five CAFO facilities and one rendering plant in Oklahoma. At all the facilities, he continued, EPA Region 6 had identified various violations, including lagoons that had been built in areas that may have been filled wetlands, exceedences in the amount of liquid waste applied to the land, and animal carcasses that had been disposed of improperly. Mr. Coleman stated that his staff was preparing a cease-and-desist order for the confirmed violations, and that corrective actions would be taken. Mr. Coleman added that many of the facilities inspected were operated by the same owner.

Ms. Minerva stressed that the proposed new NPDES permitting guidance is as strong as current regulations and that EPA is taking as aggressive a position as the law allows. She emphasized that EPA has expanded its view. She reinforced Mr. Eby's statement that EPA does not have the authority to impose a moratorium on animal waste lagoons and land applications, also adding that EPA does not have clear authority to address emissions of odors by CAFOs.

Ms. Yamaguchi asked whether the odor problem associated with CAFOs could be addressed under the CAA. Mr. Seitz stated that EPA does not have authority under the CAA to address the odor problem cited in the proposed resolution. He explained that it generally has been the responsibility of state and local governments to deal with odor issues. However, he stated, EPA's involvement can be triggered if certain constituents in the air, such as ammonia or sulfur, contribute to the odor. He added that EPA also would become involved if particulates in the air are a problem.

Ms. Carter asked whether it is possible to require farmers to locate their farms at least 25 to 50 miles from the nearest residence or neighborhood. She recommended that a statement related to proximity be incorporated into the proposed resolution to protect neighboring communities. Ms. Minerva responded that EPA does not have legal authority to impose a distance requirement. Mr. Gary Grant, Concerned Citizens of Tillery, commented that, in his opinion, it seemed that "justice is just for

corporations." He stressed that, if EPA does not have jurisdiction over siting, people in other parts of the country will suffer as the citizens of North Carolina have. Mr. Grant then stated that siting is an environmental justice issue.

Mr. Whitehead asked that an analysis be performed of EPA OW's legal authority under the Clean Water Act (CWA). He commented that EPA is very conservative about its authority, perhaps rightly so, he noted. He asked, however, whether the subcommittee could receive a simple and broad description of the authority of EPA OW.

Dr. Bryant suggested that EPA develop a geographic information system (GIS) data base of CAFOs to facilitate monitoring. Ms. Minerva stated that, since the facilities obtain permits under the new NPDES permitting guidance, their locations will be known and they can be mapped. Mr. Eby noted that data on the exact locations of CAFOs currently are limited. Dr. Gelobter asked that EPA consider providing the subcommittee with some maps based on the approximate locations of the known CAFOs. He asked that such maps be made available to the subcommittee at the next meeting of the NEJAC. Ms. Freeland recommended that EPA solicit from residents of rural areas information about the locations of CAFOs; those people will know where the facilities are, she observed. Mr. Whitehead asked that demographic information about communities located in the vicinity of CAFOs also be included in the GIS data base. Dr. Padin stated that most states have GIS maps of their jurisdiction that include information about land use. He added that the USDA funds agricultural activities and therefore should have information about the locations of CAFOs. He commented that, since USDA provides funding for such activities, that agency may be a source of financing for the adoption of alternative technologies for use by the facilities to mitigate discharges.

Ms. Freeland and Dr. Gelobter made final revisions in the proposed CAFO resolution after receiving comments from both subcommittees.

4.3 Guidance for Reducing Toxic Loadings

The Air and Water Subcommittee held a joint session with the Waste and Facility Siting Subcommittee to discuss EPA's draft guidance for the efforts of local areas to reduce the levels of toxics.

Mr. Timothy Fields, Jr., Assistant Administrator, EPA Office of Solid Waste and Emergency Response (OSWER), acknowledged the efforts of

Ms. Minerva and Mr. Brenner to reduce toxic loadings in overburdened areas. He introduced a draft guidance proposed by EPA that is intended to provide ideas and incentives to help states and localities reduce the levels of toxics in their communities. He explained that the guidance describes a priority process for approval of state implementation plans (SIP) that include toxic reduction plans, financial support for programs under which environmental justice issues are addressed, and Federal recognition of state and local programs intended to reduce levels of toxic pollutants. He added that the guidance also includes an appendix that describes ways in which state and local governments can work together to reduce pollution in their communities.

Mr. Fields asked members of the two subcommittees for their comments. He asked that they provide their opinions about whether the guidance is adequate and complete and whether the administrative benefits are sufficient to encourage state, local, and tribal governments to participate in achieving reductions in levels of toxics. He also asked for additional incentives that may encourage various sectors to participate. He asked that the subcommittee review the guidance and provide comments to Ms. Jenny Craig, EPA OAR, by June 30, 2000. Mr. Fields added that EPA would then revise the guidance in response to comments received and present the revised version to the subcommittee for the next meeting of the NEJAC.

Ms. Mary Nelson, Bethel New Life, Inc., and member of the Waste and Facility Siting Subcommittee of the NEJAC, commented that the incentives currently listed in the draft guidance "sound wonderful," but stated that she would expect that many governments will not participate. She asked whether there were any regulatory mechanisms that could be used to encourage participation. Mr. Fields responded that the effort must be voluntary, since there currently is no regulatory mandate to participate. He added that EPA therefore must provide good incentives.

Ms. Ramos asked why the guidance covers only hazardous or toxic substances. Ms. Craig explained that each EPA program uses a different definition of hazardous and toxic substances. She stated that, in the guidance, those terms have a general meaning. Ms. Craig added that the definitions of those terms would be stated in the guidance.

Mr. Mervyn Tano, President, International Institute for Indigenous Resource Management and member of the Waste and Facility Siting Subcommittee of the NEJAC, stated that, as EPA reviews risk factors

associated with toxic substances, the successes and failures of reduction efforts can be measured.

Mr. Smalley asked what sources of funding are available to local municipalities for the replacement of diesel buses with buses that run on alternative fuels, an action recommended in the guidance. Ms. Craig responded that EPA currently does not have grant money available for that or other activities described in the guidance. She emphasized that good incentives are the key to making the voluntary program work. Ms. Yamaguchi added that resources are the greatest incentive. She suggested that pilot studies be used to "kickstart" the program, technical assistance training be provided to governments on implementing the program, and that efforts be made in direct outreach to specific communities that are interested in the program. Ms. Nelson asked that EPA consider encouraging the pooling of the resources of various government programs, for example, through Agency partnerships. Mr. Fields agreed that the suggestions made by the members of the subcommittees were valuable.

Ms. Ramos commented that most of the pollution in affected communities likely originates in industries that probably would not participate in such programs. Mr. Seitz responded that he is encouraged by the positive outcome of the 3350 program, which was the precursor of the TRI voluntary reporting program. Mr. Leonard Robinson, TAMCO, expressed agreement with Mr. Seitz.

Referring to local efforts to develop goals and measure progress, Ms. Gauna asked that additional guidance be provided to overburdened areas that may need more aggressive strategies for reducing levels of toxics than other communities. Mr. Fields agreed that areas that are overburdened may require more aggressive plans.

Ms. Patricia Wood, Senior Manager, Federal Regulatory Affairs, Georgia-Pacific Corporation and member of the Waste and Facility Siting Subcommittee of the NEJAC, stated that she understood the objective of examining existing statutes and enforcing environmental justice elements in those statutes. However, she questioned the applicability of the guidance to any particular region; it would be "in the eye of the beholder" or the resident who lives in an area, she said, whether his or her community is overburdened. Ms. Wood added that perhaps EPA should focus the guidance on assessing the relative burden of pollution in the communities.

Ms. Vernice Miller-Travis, Executive Director, Partnership for Sustainable Brownfields Redevelopment and chair of the Waste and Facility Siting Subcommittee of the NEJAC, commented on the retrofitting of diesel engines in New York City. She reported that she had worked with EPA Region 2 and the state of New York to encourage use of alternative fuels by making public funding available. However, she explained, the Metropolitan Transportation Authority (MTA) had blocked their progress. She said that she would like to use regulatory tools to bring representatives of MTA to the table, but does not wish to create incentives to help the agency take an action it had failed in the past to take to comply with the law. Referring to the pilot studies as suggested by Ms. Yamaguchi, Ms. Miller-Travis also acknowledged that it is difficult to find a source of funding, but financial help should not be provided to MTA to take an action that should be required of it. The money should be directed toward implementation of innovative technologies, she suggested.

To clarify the issue, Ms. Craig stated that the guidance and financial support are not intended to help industry comply with existing laws. She said that they are meant to encourage voluntary efforts to “go above and beyond” existing regulations, adding that compliance with existing laws is assumed.

Ms. Veronica Eady, Executive Office of Environmental Affairs, Commonwealth of Massachusetts and member of the Waste and Facility Siting Subcommittee of the NEJAC, said that her state had used provisions of the National Environmental Policy Act (NEPA) to prompt the transit authority to use alternative fuels.

Ms. Minerva addressed the issue of voluntary rather than regulatory programs. She presented the example of EPA OW’s total maximum daily loads (TMDL) program, which asks states to identify water bodies that do not meet water quality standards. Exhibit 3-2 defines TMDLs. She explained that EPA OW envisioned that, as states identified their impaired water bodies, they would take regulatory steps to ensure that the water bodies meet water quality standards and take additional voluntary steps to manage future growth in neighboring communities. She stated that regulatory compliance and voluntary efforts should work together.

Mr. Johnny Wilson, Clark Atlanta University and member of the Waste and Facility Siting Subcommittee of the NEJAC, reported that while EPA laboratory reports may indicate that water quality in an area meets the maximum contaminant level (MCL), he had noticed during his inspections of

Exhibit 3-2

TOTAL MAXIMUM DAILY LOAD

A total maximum daily load (TMDL) is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, accompanied by an allocation of that amount to the sources of the pollutant.

A TMDL is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources. The calculation must include a margin of safety to ensure that the waterbody can be used for the purposes the state, tribe, or territory has designated. The calculation also must account for reasonable variation in water quality.

Section 303 of the Clean Water Act establishes water quality standards and TMDL programs.

drinking-water supplies in various Georgia counties that the results are contradictory. He said that he had been told by a technician for a drinking water unit that the water was contaminated, but the concentrations of the contaminants were not high enough to be considered a problem. Yet, an African American woman in that same community drew water from the faucet that bubbled in her glass. Ms. Minerva responded that MCLs and TMDLs fall under different EPA OW programs. She and Mr. Wilson agreed to discuss the issue further after the subcommittee meeting.

Ms. Minerva stated the EPA OW would be interested in helping communities conduct a pilot study. However, she acknowledged that funding is an issue. She added that her office’s incentives primarily would encourage early response to issues. Dr. Gelobter asked about financial help through the NPDES program or state revolving funds. Ms. Minerva responded that EPA had not given extensive consideration to the possible use of those sources.

Mr. Tano noted that there are similarities between the goals of the guidance and those of national and international standard-setting organizations, such as the International Standards Organization (ISO). He suggested that there should be links between the programs of such organizations and Federal procurement policies, through which a local government can become eligible for Federal procurement if it receives a form of “certification.”

4.4 Fish Contamination

Ms. Jaramillo, chair of the subcommittee's Work Group on Fish Consumption, presented the following questions to be addressed by the work group.

- What are the health risks of consuming non commercial fish, that is, the risks of engaging in subsistence fishing?
- Are fish advisories working?
- Are communities responding to fish advisories? If not, why?
- Is there consistency in the responses of state, local, and tribal governments to advisories? If not, why?
- Is EPA using the process of the Interagency Working Group on Environmental Justice to collaborate with other Federal agencies – for example, the U.S. Department of Health and Human Services (HHS), USDA, the U.S. Department of the Interior (DOI), and the U.S. Department of Energy (DOE) – in addressing issues related to subsistence fishing?
- Are EPA OAR and OW integrating their civil rights responsibilities in mitigating the adverse effects of consumption of contaminated fish?
- What and where are the “teeth” in the CWA that can support the effort to address fish consumption?

Ms. Jaramillo presented the work group's plan of action, which included requesting of EPA a presentation on fish consumption focused on effects on public health; soliciting the perspective of the environmental justice community on subsistence fishing; and developing recommendations and resolutions for consideration by the Executive Council of the NEJAC. The work group also was to develop a work plan for the remainder of 2000 and for 2001, she noted.

To achieve the work group's first goal of obtaining information from EPA about fish consumption, Ms. Jaramillo introduced Mr. Thomas Armitage, Standards and Applied Science Division, EPA OW, to discuss EPA's National Fish and Wildlife Contamination Program. Mr. Armitage explained that the program provides technical assistance to state, Federal, and tribal agencies on matters related to health risks associated with exposure to chemical contaminants in fish and wildlife. Activities conducted under the program include the

preparation of national guidance documents and the conduct of outreach; the maintenance of national data bases; sponsorship of national conferences and workshops; provision of grants for sampling and analysis; the conduct of special studies on fish consumption; and the provision of assistance in issuing advisories.

Mr. Armitage described two examples of national guidance documents developed under the program. *The Guidance for Assessing Chemical Contamination Data for Use in Fish Advisories* consists of four volumes that are updated every two years, he said. The guidance takes a risk-based approach, provides advice on population-specific advisories, and presents new default fish consumption rates, he pointed out. *The Guidance for Conducting Fish and Wildlife Consumption Surveys* presents methods of identifying populations that consume large amounts of fish and presents recommendations for determination of the need for advisories on the basis of data on “high-end consumers,” he continued.

Mr. Armitage described three examples of EPA OW's outreach efforts. In a letter to health-care providers targeted through a national mailing to pediatricians, obstetricians and gynecologists, family physicians, and staff of state and tribal health agencies, EPA sought to increase awareness of contaminants in sport and subsistence-caught fish. EPA also has produced brochures in English, Spanish, and Vietnamese on reducing health risks from fish consumption, he continued. The brochures are distributed nationally to health care providers and state and tribal health agencies, among other recipients, he noted. EPA also has designed a tool kit for health-care providers that is intended to increase awareness among nurses, nurse practitioners, and midwives of health issues related to fish consumption. The tool kit was featured at a meeting of the American College of Nurse-Midwives in May 2000.

Mr. Armitage introduced to the subcommittee a data base that provides a national-level list of fish and wildlife advisories that is updated annually. The data base is available on the Internet at <www.epa.gov/ost/fish> and includes all state, tribal, and Federal advisories in the U.S. and Canada. EPA also has developed a national mercury tissue data base, said Mr. Armitage.

Continuing, Mr. Armitage reported that EPA has hosted several national conferences and work groups on fish consumption. The National Forum on Contaminants in Fish, sponsored by EPA through the American Fisheries Society, is an annual

meeting conducted to discuss national issues related to contaminants in fish. The forum includes participants representing all 50 states and as many as 35 tribes, he said. In 1997 and 1999, EPA hosted work groups on the development of advisories for 35 tribal representatives. A 2000 work group is planned, he added. EPA also has hosted national technical conferences on polychlorinated biphenyls (PCB), mercury, and bioaccumulation, Mr. Armitage said.

Mr. Armitage described several special studies related to the issue, including a subsistence study conducted in Cook Inlet, Alaska; a study conducted along the Columbia River; a national study of chemical residues in fish; a comparative dietary risk project; and an evaluation of the effectiveness and awareness of advisories, specifically focusing on mercury.

In terms of grants for sampling and analysis to support advisories, EPA has solicited proposals to support state and tribal advisory programs. The selection criteria included areas of suspected subsistence activities. Mr. Armitage stated that EPA had issued four grants, to California, Delaware, Virginia, and Texas. Three grants are planned for fiscal year 2000.

Mr. Armitage requested that members of the subcommittee provide their views on the following areas: (1) identifying organizations that represent high-risk groups and individuals to help conduct a National Risk Communication Workshop; (2) reviewing the National Report on State Consistency as it is pertinent to fish consumption issues; and (3) making recommendations about how EPA can work with states to achieve consistent protection of high-risk groups.

Ms. Jaramillo commented that, in sampling efforts to support fish advisories, random sampling generally is used. She expressed her concern that random sampling may miss clusters of affected populations, including environmental justice communities. She suggested that EPA consider incorporating targeted sampling or subsampling into its methodology.

Dr. Bryant commended Mr. Armitage on a very thorough presentation. He stated that it was obvious that much research was being undertaken. He asked how EPA evaluates whether communities are complying with the advisories. Mr. Armitage stated that the data available was insufficient to provide an answer to that question. He referred to a special study that specifically targeted the issue noting that the study should be completed in 2001. The results of the study will be available to all the states, he said.

He added that the National Risk Communication Workshop can serve as a means of reaching out to various affected groups. Dr. Bryant stated that, while advisories may be successful in reaching communities, affected groups may not respond adequately. He urged EPA to do the best research possible to determine whether citizens are responding; if not, a new strategy must be developed, he said. Dr. Bryant also urged that EPA focus on the people and the effectiveness of the message.

Ms. Yamaguchi stated that, in the Los Angeles area, her organization had been working closely with the American Petroleum Institute on the fish consumption issue, primarily on contamination resulting from Superfund activities. She reported that state fish consumption advisories issued since 1990 have worked well in English-speaking communities, but not as well in English-as-a-second language (ESL) communities such as Cambodian, Vietnamese, and Chinese communities. Ms. Yamaguchi noted that reaching out to those specific communities and communicating with them in their own language had proven beneficial. Ms. Yamaguchi stated that providing funding for communities to educate themselves also has proven successful, since it is the community itself that determines the best form of outreach.

Ms. Ramos stated that, through discussions with community members in Oakland, California, she received the recommendation that such universal languages as signs be used when fish consumption advisories are posted. She asked that EPA explore that form of outreach. Ms. Ramos then stated that she recently had learned that contaminated fish have been found in some areas in Puerto Rico. Mr. Armitage said that Puerto Rico had not been included in the studies he had discussed. Ms. Jaramillo asked that it be noted that EPA may find it necessary to consider doing so.

4.5 Urban Air Initiatives

The subcommittee heard presentations and provided comment on urban air initiatives around the country.

4.5.1 U.S. Environmental Protection Agency Diesel Retrofit Program

Mr. Gregory Green, Director of the Office of Transportation and Air Quality, EPA OAR, described EPA's voluntary diesel retrofit program, which is being implemented to boost the efforts of existing regulatory air programs. He explained that diesel engines are high emitters of air pollution, especially in urban areas. He reported that diesel emissions

constitute 49 percent and 24 percent of the nation's nitrogen oxide and particulate matter inventories, respectively. Mr. Green added that a study conducted by the South Coast Air Quality Management Division in California attributes 70 percent of all cancer deaths in the area from exposure to air toxics of diesel particulate matter emissions.

Mr. Green stated that a voluntary program to retrofit diesel engines will provide immediate reductions in air pollution. He said that the program will address emissions from existing fleets, establish a process for new technology verification, and provide incentives to obtain credits for SIPs under EPA's Voluntary Measures Program. He presented several examples of retrofitting a diesel engine, including using a catalyst or filter; conducting an engine upgrade; early replacement of the engine; using a cleaner fuel or additive; or implementing a combination of the above-mentioned examples.

According to Mr. Green, EPA's goal for this year is to retrofit 10,000 diesel engines. He clarified that success will be measured by obtaining at least commitments to retrofit, not necessarily actual retrofits. Mr. Green stressed that the voluntary program will establish strong, positive partnerships between EPA, state and local agencies, industry (including engine manufacturers and users), environmental organizations, and the members of the public.

Mr. Green directed the subcommittee to the following web site for additional information on EPA's voluntary measures program at <http://epa.gov/oms/transp/traqvdm.htm>

Mr. Whitehead asked about the emissions trading component of the voluntary measures program. Mr. Green responded that EPA has not yet decided on how exactly to implement that component. Mr. Smalley recommended that for short-term results, public transportation should be well-maintained so that diesel emissions are minimized and Mr. Green agreed.

Dr. Gelobter asked how much of the diesel emissions in New York City result from trucks and construction vehicles. He also asked if EPA is taking steps to phase out diesel gasoline. Mr. Green reported that about 60 to 65 percent and about 40 percent of diesel emissions in New York City come from trucks and construction vehicles, respectively. He stated that until a replacement fuel for diesel is developed or found, it would be difficult to phase out the fuel. He explained that about 10 million pieces of equipment in the United States currently require

diesel. He reported that EPA is working with a forum on diesel fuel to develop a much cleaner fuel.

4.5.2 U.S. Environmental Protection Agency Tier 2 Strategy

Mr. William Harnett, Acting Director, EPA OAR, provided an update on EPA's Tier 2 strategy and a status report on two issues that the subcommittee had requested EPA investigate at the December 1999 meeting, (1) measurement of disparate effects and (2) analysis of the locations of all facilities that pollute the air.

Mr. Harnett reported that under the Tier 2 strategy, EPA has begun compiling the locations of every refinery in the United States and their emissions (including nitrogen and sulfur oxides). He stated that a national emissions inventory is being developed and soon will be available. He said that EPA also is developing a brochure for the general public on each refinery (about 115) that will describe the Tier 2 program and the changes that will be made to refineries to meet EPA's regulations. Mr. Harnett ensured the members of the subcommittee that he will solicit their comments on the first drafts of each brochure.

Mr. Harnett stated that EPA also is preparing a document that will identify steps that a refinery can take to reduce its nitrogen and sulfur oxide emissions. He acknowledged that while EPA does not have the authority to enforce those steps, the Agency can strongly encourage each refinery to cooperate. He stated that the likelihood of a faster and smoother permitting process can be an effective incentive.

Ms. Gauna commented that to assess disparate effects, it would be helpful to examine the proximity of the refineries to environmental justice communities. She asked if it might be possible for multiple facilities to collectively increase emissions in an area to harmful levels, but not enough of an increase to prompt a new source review of the individual facilities. Mr. Harnett responded that while EPA is compiling many pieces of information, the Agency currently is not conducting a comprehensive analysis to make that determination. He stated that EPA is examining regions on a county level with a focus on the southern region and other areas where refineries are concentrated.

Mr. Smalley asked for a clarification on whether the public is being involved in the regulation of sulfur dioxide under the Tier 2 strategy. Mr. Harnett responded that because sulfur currently is being removed from fuels, permits involving sulfur

emissions go through the public comment period. He added that two public comment periods may be necessary if the permit is reviewed under the Tier 2 strategy and for sulfur dioxide provisions separately.

4.5.3 Environmental Justice Concerns in Southern California Related to Air Pollution

Ms. Rachel Morello-Frosch, Post-Doctoral Researcher, School of Public Health, University of California at Berkeley, presented information on the distribution of air toxics and associated cancer risks among various communities in southern California. She reviewed traditional approaches that have been used in environmental justice research on air pollution, including (1) evaluating the location of emission sources relative to environmental justice communities; (2) assessing emissions loadings from those sources (for example, by examining data from the TRI); and (3) evaluating the distribution of ambient concentrations of criteria pollutants, including nitrogen and sulfur oxides; particulate matter; ozone; carbon monoxide; and lead. She stated that there has been little research conducted on the 188 air toxics listed under the CAA because of the lack of consistent monitoring.

Ms. Morello-Frosch discussed new opportunities to assess environmental justice concerns through examination of data collected under EPA's Cumulative Exposure Project (CEP). She said that the data can allow modeling of long-term ambient concentrations of the 148 HAPs, which are estimated for all 2,600 census tracts in southern California. She added that the data includes mobile and non-mobile emission sources. She explained that the CEP focuses on southern California because that region constitutes some of the most challenging air pollution problems in the country, including adverse health effects.

Ms. Morello-Frosch reviewed how cancer risk estimates based on inhalation unit risk for individual pollutants are calculated. She reported that the estimated lifetime cancer risk in southern California ranges from 6.9 to 591 per 100,000 people and has a mean of 59 per 100,000. She added that nearly 8,000 excess cancer cases are estimated in the region, with the following five pollutants accounting for about 80 percent of the excess, polycyclic organic matter; 1,3-butadiene; formaldehyde; benzene; and chromium.

Ms. Morello-Frosch then reported that 25 percent (3.5 million) of the population resides in census tracts with the highest risk of cancer. She stated that 68 percent of the population are people of color,

while 32 percent of the population are Anglos. She added that the probability of a person of color living in the high risk tract is one in three rather than one in seven for an Anglo resident.

Ms. Morello-Frosch stated that race and ethnicity play a persistent explanatory role in the distribution of estimated cancer risks associated with outdoor HAPs while controlling for economics, land use, and other factors. She said that the bulk of cancer risks in the region are attributable to transportation and small area source emissions. She added that cancer risks from HAPs overall exceed the CAA goal of one in a million by at least one to three orders of magnitude. Ms. Morello-Frosch ended by presenting several policy implications of the findings. She said that emission source allocation results raises challenges for developing effective emission reduction strategies. She stated that area sources are smaller and widely dispersed with diverse production characteristics, making uniform approaches difficult. She reported that proliferation of mobile sources continues to steadily erode the gains made from emission reduction efforts. She recommended that future environmental justice research approaches emphasize how changing land use patterns, suburbanization, and transportation development affect pollution streams and the distribution of risks among diverse communities and the poor.

Ms. Gauna noted that formaldehyde was one of the five chemicals that Ms. Morello-Frosch had identified as a pollutant of concern. She asked whether formaldehyde has a strong synergistic effect with the other chemicals. Ms. Laura McKelvey, EPA OAR, responded that formaldehyde is one of the pollutants that EPA is examining that may transform into other harmful products. She stated that the transformation and synergy among chemicals is an area identified by EPA as requiring additional research to understand the cumulative effects of multiple pollutants.

4.5.4 Partnership for Clean Air Communities

Mr. T.J. Roskelley, Northeast States for Coordinated Air Use Management (NESCAUM), presented information on NESCAUM's Partnerships for Clean Air Communities project, which is exploring the use of emissions trading to curb air pollution in urban communities. He reported that emissions trading has saved billions of dollars in environmental compliance costs. However, he stated that major policy issues must be addressed if emissions trading is to remain a viable policy tool. Specifically, he explained that (1) EPA must close loopholes by regulating every polluter; (2) cost-savings must result

in environmental benefits either through more stringent regulation or through mechanisms that redirect the savings into environmental investments; and (3) environmental equity concerns must be adequately addressed through policies and initiatives that focus on discrete communities instead of the aggregate pollution.

Mr. Roskelley explained that the Partnerships for Clean Air Communities project focuses on the third point, which explores whether emissions trading can be used to the advantage of urban communities. He presented the following key objectives of the project:

- Build a diverse coalition to reduce urban air pollution with a focus on participation by local community groups.
- Implement discrete clean air strategies to reduce local urban air pollution.
- Develop a framework for using emissions trading to enhance urban air quality.
- Develop long-term, sustainable models for funding clean air initiatives.
- Create a policy model that will be easily transferable to any urban area.

Mr. Roskelley reported that ConEd will provide the initial funding for the project, which will focus on maximizing the environmental health benefits in the New York City area. Upcoming activities for the project include public outreach and an initial press announcement in May 2000 through mid-summer; development of criteria and a process for selecting projects by late Summer 2000; and announcement of a request for proposal (RFP) and the full launch of the program in Fall 2000.

Mr. Roskelley called upon the subcommittee to help in developing criteria for the project. He stated that NESCAUM's ultimate goal is to apply the project nationally. He announced a meeting in New York City this summer for those interested in collaborating on the project.

Dr. Gelobter stated that he is on the steering committee for the project. He observed that one of the problems that environmental justice communities face is a lack of resources to purchase credits. He stated that the RFP process will involve creating a two-step process to purchase credits and coordinating with various parties to secure funding sources. He stated that he would like the NEJAC, particularly the Air and Water Subcommittee, to consider how communities of color can purchase

credits and what kinds of credits they could purchase.

4.5.5 U.S. Environmental Protection Agency Urban Air Toxics Strategy

Ms. McKelvey provided an update on EPA's urban air toxics strategy and the national air toxics assessment. She reviewed the purpose of an EPA OAR working group on urban air toxics that has been formed to determine how state, local, and tribal governments can reduce health risks from urban pollution in their jurisdictions. She mentioned that Dr. Bryant, Dr. Ellen Barron, Paso Del Norte Air Quality Task Force, and Dr. Greenbaum have attended and participated in previous meetings of the working group. She stated that the next working group meeting will be held June 14 and 15, 2000 in Washington, D.C., followed by another meeting in August 2000 to finalize the group's plan of action.

Ms. McKelvey reported that, as part of EPA's National Air Toxics Assessment (NATA) program, additional data will be collected on loadings of specific pollutants in local areas. Exhibit 3-3 describes the NATA program. She explained that the assessment aims to lay out a more effective approach to monitoring air toxics, based on results of four pilot cities around the country. She stated

Exhibit 3-3

U.S. ENVIRONMENTAL PROTECTION AGENCY'S NATIONAL AIR TOXICS ASSESSMENT PROGRAM

The National Air Toxics Assessment (NATA) program, one of four components identified in the U.S. Environmental Protection Agency's (EPA) Office of Air and Radiation (OAR) Integrated Urban Air Toxics Strategy to reduce air toxics. The NATA program will help EPA identify areas of concern, characterize risks, and track progress in achieving the Agency's overall goals for the air toxics programs. Activities under NATA include expanding of air toxics monitoring, improving and periodically updating emissions inventories, national- and local-scale air quality, multi-media and exposure modeling, continued research on health effects and exposures to both ambient exposure and assessment tools. The activities will provide EPA with improved characterizations of risk posed by air toxics and risk reductions that result from the imposition of emissions control standards and the adoption of initiatives for stationary and mobile source programs.

that the pilot projects are helping EPA to understand the spatial distributions of air pollution sources in urban areas. She reported that EPA hopes to have ambient concentrations collected and available for public review by late June 2000. She stated that in addition to ambient air modeling, EPA is expanding the project by plugging data into an exposure model and conducting a risk characterization. Ms. McKelvey projected that the results of the modeling and risk characterization will be available for peer review in late August, with finalization of the report targeted for December 2000.

Ms. Yamaguchi commented that there appears to be opportunities for community-based monitoring activities as part of the national air toxics assessment. She stated that a good incentive to encourage communities to attend public meetings on the issue is to promise training on how to conduct air monitoring. Dr. Bryant emphasized the importance of developing a manual on public participation and research.

5.0 RESOLUTION AND SIGNIFICANT ACTION ITEMS

This section summarizes the resolution forwarded to the Executive Council of the NEJAC for consideration and the significant action items adopted by the Air and Water Subcommittee.

The members discussed a resolution in which the NEJAC requests that EPA regulate mercury emissions from coal-fired power plants.

The members also adopted the following significant action items:

- ✓ Recommend that the NEJAC establish under joint sponsorship of the Air and Water and Waste and Facility Siting subcommittees a work group to (1) review and comment by June 30, 2000, on the Draft Guidance to Reduce Toxic Levels issued by EPA OSWER (2) to continue dialogue on reductions in levels of toxics.
- ✓ Recommend that the Executive Council of the NEJAC establish under joint sponsorship of the Air and Water and Indigenous subcommittees a work group to examine issues related to fish consumption.
- ✓ Recommend that the Executive Council of the NEJAC organize an urgent meeting between representatives of EPA OAR and EPA Region 2 to discuss air pollution from power plants in Puerto Rico to follow up the resolution on the issue approved at the December 1999 meeting of the NEJAC.
- ✓ Agree to review EPA OW's National Report on State Consistency, which addresses issues related to fish consumption.

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MEETING SUMMARY

of the

ENFORCEMENT SUBCOMMITTEE

of the

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

**May 25, 2000
ATLANTA, GEORGIA**

Meeting Summary Accepted By:

Shirley Pate

**Shirley Pate
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Designated Federal Official**

Robert Banks
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
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Luke Cole
Chair

**CHAPTER FOUR
MEETING OF THE
ENFORCEMENT SUBCOMMITTEE**

1.0 INTRODUCTION

The Enforcement Subcommittee of the National Environmental Justice Advisory Council (NEJAC) conducted a one-day meeting on Thursday, May 25, 2000, during a four-day meeting of the NEJAC in Atlanta, Georgia. Mr. Luke Cole, Center on Race, Poverty, and the Environment, continues to serve as chair of the subcommittee. Ms. Shirley Pate, U.S. Environmental Protection Agency (EPA) Office of Enforcement and Compliance Assurance (OECA), continues to serve as the Designated Federal Official (DFO) for the subcommittee. Mr. Robert Banks, EPA OECA, serves as the alternate DFO for the subcommittee. Exhibit 4-1 presents a list of the members who attended the meeting and identifies those members who were unable to attend.

This chapter, which provides a summary of the deliberations of the Enforcement Subcommittee, is organized in five sections, including this *Introduction*. Section 2.0, *Remarks*, summarizes the opening remarks of the chair of the subcommittee and the Principal Deputy Assistant Administrator of EPA OECA. Section 3.0, *Strategic Planning Process of the Enforcement Subcommittee*, summarizes the discussions about the draft strategic plan of the Enforcement Subcommittee. Section 4.0, *Presentations and Reports*, presents an overview of each presentation and report, as well as a summary of relevant questions asked and comments offered by members of the subcommittee. Section 5.0, *Resolutions and Significant Action Items*, summarizes the resolutions forwarded to the Executive Council of the NEJAC for consideration and the significant action items adopted by the subcommittee.

2.0 REMARKS

This section summarizes the opening remarks of the chair of the subcommittee and of the Principal Deputy Assistant Administrator of EPA OECA, as well as the discussion among the members of the subcommittee that those remarks prompted.

Exhibit 4-1

ENFORCEMENT SUBCOMMITTEE

**Members
Who Attended the Meeting
May 25, 2000**

Mr. Luke Cole, **Chair**
Ms. Shirley Pate, **DFO**
Mr. Robert Banks, **Alternate DFO**

Mr. Delbert Dubois
Ms. Rita Harris
Ms. Nan Freeland *
Ms. Zulene Mayfield
Ms. Lillian Mood
Mr. Gerald Torres
Mr. Robert Varney

**Members
Who Were Unable To Attend**

Ms. Savonala (Savi) Horne, **Vice-Chair**
Ms. Meghan Magruder

* Ms. Freeland served as a proxy for Ms. Horne.

2.1 Remarks of the Chair of the Enforcement Subcommittee

Mr. Cole opened the subcommittee meeting by welcoming the members present and Ms. Pate. Mr. Cole explained that comments of observers would be taken throughout the meeting at the discretion of the chair. At Mr. Cole's request, the members of the subcommittee then introduced themselves.

2.2 Remarks of the Principal Deputy Assistant Administrator of the U.S. Environmental Protection Agency Office of Enforcement and Compliance Assurance

Ms. Sylvia Lowrance, Principal Deputy Assistant Administrator, EPA OECA, discussed EPA's enforcement and compliance targeting activities, noting that EPA had invested various efforts in targeting activities and those efforts have improved over the past five years, helping the Agency to identify nonreporters and areas in need of more regulatory attention. Ms. Lowrance declared that

targeting "is paying off" and that OECA had found numerous cases of noncompliance through its targeting efforts.

Ms. Lowrance then discussed combined sewer and sanitary overflows. She stated that many sewer systems are poorly maintained and are in need of improvement. Mr. Cole agreed, stating that sewer overflows are a major environmental justice issue, as well. Ms. Lowrance touched briefly on the major media programs and stated that air and water are the focus of many of these programs.

Turning her attention to budget matters, Ms. Lowrance stated that a major battle over the enforcement budget is expected. Ms. Lowrance explained that the U.S. House of Representatives will consider the budget first, and then the U.S. Senate will do so. It is expected that approximately 200 inspectors and agents, as well as some laboratory personnel may be eliminated under some congressional proposals.

Turning her attention to state enforcement programs, Ms. Lowrance described a study by the National Academy of Public Administration (NAPA) that will report on state enforcement methods. Past reports on the status of state enforcement programs have shown that the measurement of results should be examined more closely. Mr. Cole asked about the difference between reports prepared by the EPA Inspector General (IG) and by organizations, such as the Environmental Council of States (ECOS) and NAPA on state enforcement programs. Ms. Lowrance explained that reports by ECOS and NAPA are somewhat more qualitative than EPA IG reports, which are more data oriented.

Mr. Cole pointed out that enforcement of Title VI of the Civil Rights Act of 1964 (Title VI) remains an issue. He asked whether Ms. Lowrance could move EPA to take more vigorous action in the area of Title VI. Ms. Lowrance suggested that the Enforcement Subcommittee pay close attention to the issues that Ms. Ann Goode, Director of EPA's Office of Civil Rights (OCR), was to discuss later in the meeting and examine the cases Ms. Goode was to present. Ms. Lowrance suggested that the subcommittee judge EPA according to the Agency's actions over the next 6 to 12 months and noted that Ms. Goode likely would discuss the challenges facing EPA's OCR.

Mr. Cole then turned his attention to EPA's Tier 2 Clean Fuels Initiative. Exhibit 4-2 describes the Tier 2 Clean Fuels Initiative. He explained that the subcommittee had drafted a letter to the EPA Administrator that will discuss an example of the

implementation of a clean fuels program in California. The letter will discuss good neighbor agreements that cover reductions in fugitive emissions from refineries, he continued. Mr. Cole stated that the California program should be used by EPA as a national model.

Exhibit 4-2**TIER 2 CLEAN FUELS INITIATIVE**

In December 1999, the U.S. Environmental Protection Agency (EPA) announced new general emission standards (Tier 2 standards) for passenger cars, light trucks, and larger passenger vehicles. The program is designed to focus on reducing the emissions most responsible for the ozone and particulate matter effect from those vehicles. The program also will, for the first time, apply the same set of Federal standards to all passenger cars, light trucks, and medium-duty passenger vehicles.

The other part of the Tier 2 Clean Fuels Initiative will reduce average gasoline sulfur emission levels nationwide. Refiners will install advanced refining equipment to remove sulfur during the production of gasoline. Importers of gasoline will be required to import and market only gasoline meeting the sulfur limits.

Ms. Rita Harris, Community Living in Peace, Inc., then asked Ms. Lowrance for an update on EPA's air program in light of the many new air quality requirements, which Ms. Harris noted, will cause many facilities to be in noncompliance. Ms. Harris asked Ms. Lowrance to make the air program requirements available on EPA's Internet home page. Ms. Lowrance stated that enforcement of air requirements is difficult at both the state and Federal level, explaining that capital technology changes for facilities must be studied to detect this compliance. She then stated that EPA's air program information and various enforcement alerts are available on EPA's OECA Internet home page. She explained further that press releases and new cases are uploaded to OECA's Internet home page within a few weeks of their initiation, but she noted that funding problems do hinder the prompt placement of information on the web site.

Ms. Lillian Mood, South Carolina Department of Health and Environmental Control, referred to enforcement cases that had been brought up during public comment periods of the NEJAC and stated that the NEJAC was working to bring attention to the enforcement process. She then asked Ms. Lowrance how EPA responds to enforcement issues

that are discussed during meetings of the NEJAC. Ms. Lowrance stated that the majority of EPA's various regions have deputy regional administrators or environmental justice coordinators present at the NEJAC meeting to document the issues discussed. Those issues, Ms. Lowrance explained, are studied and discussed at the regional level and at the state level, as well. The states then discuss progress on the issues with the communities concerned. To ensure that progress is made, continued Ms. Lowrance, state and EPA regional representatives must perform oversight of facilities that are involved in enforcement issues. Ms. Lowrance stated her belief that fines and penalties enhance the impact of enforcement cases; however, she also added, there is frustration with inaction and a lack of resources for some cases. Ms. Mood then stated that, in some cases, there are questions of authority. In response, Ms. Lowrance admitted that interagency work is "not consistent with success" because the concerns of agencies differ for various sites. She explained that some successes have been achieved because a number of agencies have met with community groups to initiate action. Mr. Cole then stated that interagency work is an issue, but that EPA should follow up more assertively on enforcement issues at the local level. Ms. Harris then asked whether follow up investigations become criminal investigations and whether there is a telephone number that members of communities can call to offer tips and register complaints. The members of the subcommittee, she explained to Ms. Lowrance, need such a telephone number. Ms. Lowrance responded that although a telephone number would be useful to the development of criminal investigations, EPA does not have resources to initiate one.

The discussion then turned to compliance assistance issues. Mr. Robert Varney, New Hampshire Department of Environmental Services, stated that enforcement at the state level had undergone a "very positive elevation." Two key strategies involved are pollution prevention and compliance assistance, he said. Mr. Varney then asked Ms. Lowrance for an update on compliance assistance. Ms. Lowrance explained that 10 compliance assistance centers currently are in operation, providing assistance to small businesses and industry groups. Exhibit 4-3 describes compliance assistance centers. EPA currently was working on a two-year plan to provide compliance assistance and was establishing a national clearinghouse that can coordinate compliance material for states, schools, and Federal agencies. More and more often, she continued, targeted compliance assistance is not effective without enforcement. Ms. Lowrance then noted as an example that metal finishers have had compliance

assistance provided to them over a five year period; yet, she noted, compliance in that industry had not improved. Therefore, she continued, EPA was to begin targeting enforcement actions to metal finishers. Ms. Lowrance explained further that Federal measures of compliance assistance currently were under review. Mr. Varney then suggested that targeted enforcement and compliance assistance be performed in tandem. Ms. Lowrance suggested that a targeted strategy for compliance assistance be outlined by industrial sector. Finally, Ms. Mood noted that both state and EPA efforts in compliance assistance require improvement in terms of community involvement.

Exhibit 4-3

COMPLIANCE ASSISTANCE CENTERS

The U.S. Environmental Protection Agency (EPA) created the Compliance Assistance Centers to provide comprehensive easy-to-understand compliance information targeted specifically to industry sectors. Compliance Assistance Centers seek to promote partnerships between the small business community and their technical and regulatory providers. Through plain-English guides, consolidated checklists, and other tools, Compliance Assistance Centers seek to minimize waste production and maximize environmental performance. There are Compliance Assistance Centers for the following sectors, automotive; metal finishing; agricultural; printed wiring board manufacturers; printing; transportation; painters and coatings; and chemical manufacturers.

3.0 STRATEGIC PLANNING PROCESS OF THE ENFORCEMENT SUBCOMMITTEE

In August 1999, the Enforcement Subcommittee of the NEJAC developed a strategic plan to make the subcommittee's work more focused and to create tools to evaluate the effectiveness of the NEJAC's advice to EPA. The goal of the strategic plan is to enable the subcommittee to ensure that environmental justice principles become institutionalized in all enforcement activities of EPA. The subcommittee currently is gathering data on, analyzing, and providing recommendations for improving EPA's activities in the four areas outlined below:

- Target EPA enforcement resources on the areas in which the levels of pollution are the highest.
- Focus on other enforcement options, including state and tribal enforcement and citizen suits, to

ensure that they include consideration of the principles of environmental justice and to increase the level of resources devoted to enforcement of environmental laws.

- Ensure that the principles of environmental justice are made integral to all EPA's compliance alternatives, including economic incentive programs (EIP); performance partnership agreements; and pollution prevention initiatives, such as the XL program and the Common Sense Initiative.
- Continue to insist that EPA have a real, credible civil rights enforcement policy and presence, including confrontation of the Agency with evidence of gaps and flaws in its implementation of Title VI and recommendation of ways to strengthen EPA processes.

Before discussing the strategic plan in detail, Mr. Cole led a discussion about whether the subcommittee should make a change from providing resolution-based advice to providing report-based advice to the EPA Administrator through the Executive Council. Mr. Cole suggested that a report format be used for issues that deal heavily with policy. Mr. Varney indicated that the Federal Advisory Committee Act (FACA) committee that he had chaired did not operate with resolutions, but instead wrote letters to EPA and had paragraphs to summarize concerns and recommendations; EPA then would send a response letter mirroring the letter that summarized the Agency's responses to each concern and recommendation. He suggested that there sometimes is a formality and aggressiveness associated with resolutions that make them inappropriate when the primary purpose of the document is to advise the EPA Administrator. Mr. Cole noted that there are three types of solutions: political (for which the subcommittee expects action, rather than response), community support (for which there should be a focus on resources), and policy (for which in-depth discussions would be most helpful). The members of the subcommittee should consider the use of letters or resolutions and let other members know their opinions, he suggested.

The members of the subcommittee then discussed the progress of the subcommittee related to addressing the first section of the Strategic Plan related to targeting EPA enforcement actions. The first section of the Strategic Plan is divided into six subsections: Communities of Color and Low-income Communities; Enforcement by EPA's Regional Offices; Federal Facilities; Supplemental Environmental Projects (SEP) and Community

Benefit; Concentrated Animal Feeding Operations (CAFO); and Bad Actors.

Communities of Color and Low-Income Communities

Ms. Mood and Ms. Zulene Mayfield, Chester Residents Concerned for Quality Living, were to work on incorporating community views into the determination of enforcement priorities. Ms. Mayfield suggested that enforcement fines assessed in minority and nonminority areas be compared, since, she noted, there often is disparity between the two. Mr. Cole and Ms. Mayfield were to draft a letter to the Agency to request an updated analysis to ensure that fines are fair in both minority and nonminority areas.

Enforcement by EPA's Regional Offices

Mr. Cole indicated that he had been working with Ms. Pate to schedule a conference call with regional EPA offices to discuss the creation of an "enforcement report card" to focus on outstanding performance and enforcement underachievement by the regions. Mr. Cole and Ms. Pate were to prepare a revised report card on regional enforcement and present it to the EPA Administrator and the 10 EPA regional administrators.

Federal Facilities

Mr. Cole directed his attention to the section of the Strategic Plan on Federal facilities. He indicated that a work group of the NEJAC was being established to analyze and take action on environmental justice issues related to Federal facilities. Mr. Cole asked whether any members of the subcommittee would serve on the proposed work group. Ms. Harris then volunteered to join the Federal facilities work group of the NEJAC.

Supplemental Environmental Projects (SEP) and Community Benefit

Mr. Cole indicated that the subject of SEPs was open for public comment. He then asked Ms. Pate to make the Federal Register citation on SEPs available to Mr. Gerald Torres, University of Texas School of Law, Ms. Mayfield, and himself. Mr. David Nielsen, Director of the Resource Conservation and Recovery Act (RCRA) Enforcement Division, Office of Regulatory Enforcement (ORE), EPA OECA, was asked to make publications on SEPs available directly to the members of the subcommittee, while Mr. Varney was asked to provide examples of SEPs to the subcommittee.

Concentrated Animal Feeding Operations

Ms. Harris suggested that the subcommittee submit a report on CAFOs, rather than a resolution, because, she said, the topic requires a much more detailed discussion. Mr. Cole also proposed that a larger report be prepared. The subcommittee discussed the forwarding of a proposed resolution on CAFOs to the Executive Council of the NEJAC and the subsequent submittal of a larger report on CAFOs at a later date. Members of the subcommittee had agreed to forward a proposed resolution on CAFOs to the Executive Council for consideration.

Bad Actors

This subsection of the plan discusses a small percentage of permit holders that are responsible for a large percentage of permit violations and enforcement actions. Ms. Mayfield and Ms. Harris were asked to work on that section. Ms. Harris was to investigate whether states observe those facilities. Ms. Mayfield was to prepare a list of potentially responsible parties, targeting the “top ten” bad actors or the “dirty dozen.” Mr. Cole asked about EPA’s policy on dealing with bad actors. Ms. Pate agreed to determine whether there is a list of model regulations for bad actors. Mr. Varney will assist Ms. Harris and Ms. Mayfield in gathering information about bad actors from state agencies.

4.0 PRESENTATIONS AND REPORTS

This section summarizes the presentations made to the Enforcement Subcommittee on issues related to enforcement and compliance assurance. Mr. Cole introduced the theme of the meeting as: What health data should EPA use to target enforcement resources at the most vulnerable communities, and how should resources be gathered to support effective efforts? A panel discussion on the health theme was presented. Other presentations were made on CAFOs and the status of EPA’s activities related to Title VI.

4.1 Health Theme Discussion: What Health Data and Indicators Should the U.S. Environmental Protection Agency be Using to Target its Enforcement Efforts and Resources?

Ms. Mood moderated a panel of four speakers who discussed health data and indicators as they are related to enforcement and environmental justice. The presentations made on the theme of the meeting are summarized below.

4.1.1 Presentation on the U.S. Environmental Protection Agency’s Enforcement and Compliance Targeting Activities

Ms. Betsy Smidinger, Chief, Targeting and Evaluation Branch (TEB), Office of Compliance, EPA OECA, provided an overview of EPA’s compliance screening and targeting activities. In a handout to the members of the subcommittee, Ms. Smidinger described the TEB. She explained that the TEB develops analytic projects and targeting tools that are provided to enforcement and compliance personnel of EPA. She stated further that TEB is customizing the tools for use by state governments.

Ms. Smidinger then spoke about risk-based activities and the use of subjective risk assessments in compliance screening activities. She explained that most risk-based activities use historical approaches and observe various factors, such as: the economic size of companies and facilities, a facility’s greatest perceived risk, and the rate of noncompliance. Ms. Smidinger also described EPA’s current screening activities, that include screening, planning, and strategy. She then identified three steps in screening activities: (1) identify problems that pose the highest risk, (2) determine national enforcement priorities, and (3) develop a strategy for each area that identifies what activities will be done to address the problem. Ms. Smidinger indicated that additional information from regions; state, local, and tribal governments; environmental organizations; and industry groups that are not available through EPA’s data systems are helpful in this process.

Ms. Smidinger indicated that most of the targeting reports developed by TEB use data from the Integrated Data for Enforcement Analysis (IDEA) system. That system, she noted, brings together enforcement and compliance data from various agencies and external data bases to provide broad analytic capabilities. Data in the system include information from the water, air, and hazardous waste programs, the Toxic Release Inventory (TRI), and the Emergency Response Notification System, as well as economic and demographic data from the U.S. Census Bureau, she explained.

Ms. Smidinger also spoke about strategic targeting. She explained that strategic targeting projects examine large data sets to determine which industry sectors and high risk geographic areas should be the focus of the compliance and the enforcement program. Information about pollutants and chemical releases, inspection and compliance history, TRI risk data, and demographic information are analyzed to determine which industries or geographic areas

should be the focus of additional inspection or enforcement coverage, she said.

Ms. Smindinger also briefly mentioned other EPA screening tools, such as the On-line Targeting System (OTIS), which maps facilities according to compliance factors, and the Risk Screening Environmental Indicators Model, which relies on TRI data. She described geographic analysis as a screening tool that identifies counties in the United States in which environmental conditions are poor and appear to receive less enforcement attention than other counties. However, noted Ms. Smindinger, that screening tool was not found to be successful. Responding to Mr. Cole's inquiry about why geographic analysis is not a successful screening tool, Ms. Smindinger explained that she did not know all the details about the reason, but that one factor is that internal EPA data bases do not have all the information needed to support geographic analysis, such as a list of nonnotifiers and facilities that are not in compliance.

4.1.2 Presentation on Indicator Technology: Utility for Identifying High Risk Communities

Mr. Tim Aldrich, Chief of the Chronic Disease Epidemiology Division, South Carolina Department of Health and Environmental Control, first defined an indicator, which can be community-based or environmental, as an indirect measure that reveals a change in a community practice or in risk behavior.

Mr. Aldrich explained how exposures that are hazardous to human health are monitored through the use of indicators. As an example of indicator logic, he explained how the human health effects of the toxin *pfisteria* can be measured. There is no monitoring agent available to actually measure *pfisteria*, he continued. Therefore, fish kills are monitored instead to determine the human health effects of the toxin. While it may not be possible to monitor the actual contaminant, said Mr. Aldrich, the results of the monitoring of fish kills can provide an indication of human health exposures to the toxin.

Mr. Aldrich next described four factors that influence the use of indicators in environmental health: (1) selective forces, (2) spatial and temporal consistency, (3) clarification of issues, and (4) nuisance indices. A selective force, he explained, may be representative of class, level of wealth, or accessibility. An example of a selective force is a trip to the emergency room or the use of home care. He next identified an example of spatial and temporal consistency, levels of ozone emissions that differ from one another in different geographic

regions. Clarification of issues, Mr. Aldrich explained, deals with susceptibility. An example would be the monitoring of rates of absenteeism at schools and workplaces to help determine groups at risk. Nuisance indices, he then explained, may not be a health effect; odor, he added, is an example of a nuisance index.

Mr. Aldrich then identified several examples of indicators and then described several indicators in the context of cancer. He noted that, with community participation, various indicators can be evaluated and occurrences of hazards monitored more closely. He said incidence and mortality ratios can measure which communities are most heavily affected by environmental health issues. He explained that those indicators are available through state cancer registries. Next, Mr. Aldrich discussed screening activities. If there are low incidence and mortality ratios, there are lower occurrences with lower screening rates. Last, he described sentinel events. Mr. Aldrich said sensors are used as a system to help identify where events are occurring, he said; when cases begin to occur, connections can be made for where and when events are occurring by watching for outcomes of the sensor use.

Mr. Aldrich then turned his attention to sources of indicator data. Two sources, he explained, are disease registries and demographic data bases supported by the U.S. Census Bureau. Another source of indicator data is the Behavioral Risk Factor Surveillance System, which is available in all states. The system, he said, rates the health and limitations of communities and monitors complaints and dissatisfactions. The final source, Mr. Aldrich identified, was sentinel event processes, which can relate good biological information and in turn help enforcement begin earlier.

Turning his attention to interpreting indicators and criteria for choosing indicators, Mr. Aldrich explained that interpreting indicators can involve quantitative and qualitative analyses. Another method of interpretation is the use of directed surveys in schools, homes, and churches. Referring to the criteria for indicators, Mr. Aldrich stated that indicators can be nonspecific, such as environmental data, or spatially localized, such as community-based data. Indicators can be chosen on the basis of the system designed for data collection and should take into account specificity and sensitivity, Mr. Aldrich said in conclusion.

4.1.3 Presentation on Environmental Enforcement and Public Health

Dr. Maureen Lichtveld, Associate Director of Workforce Development, Public Health Practice, Centers for Disease Control and Prevention (CDCP), provided an overview of the relationship between environmental enforcement and public health.

Dr. Lichtveld first spoke about exposure pathways, explaining that hazardous substances are transferred from operations through various pathways, such as biota, air, soil, and water, to receptors, such as people and animals. Next, she discussed the model for establishing a relationship between exposure to hazardous substances and adverse health effects. The model tracks environmental contamination from biologic uptake through contact with the target organ, biological change; and, finally, disease.

Next, Dr. Lichtveld described the hierarchy of data for exposure assessment. She indicated that individual assessments and measurements are most accurate. Other exposure surrogates are ambient measurements, such as indoor air. The remaining portions of the hierarchy include measuring distance and duration, residence or employment proximity, and residence or employment in geographic areas of concern. Dr. Lichtveld then turned her attention to biological testing. She explained that biological testing can measure various effects of the interaction of a toxicant with the human body, including: a toxicant (directly), a metabolite of a toxicant, an effect of an interaction, absorption of a toxicant (indirectly), and effects on a target organ.

Dr. Lichtveld then discussed the role of science in addressing environmental health concerns. She stated that solving public health problems involves evaluating scientific and technical knowledge and public concerns. Dr. Lichtveld then listed the key issues that influence the delivery of environmental health service to persons at risk and communities:

- Application of population-based epidemiologic findings in community-oriented intervention strategies.
- Toxicological concordance of effects and effect levels among species.
- Availability of biological markers of exposure, effect, and susceptibility.
- Development of standardized methods and techniques for quantitatively assessing

increased knowledge gain and behavioral change.

- Use of clinical practice to identify and address community health issues.
- Use of quantitative outcome information to increase the effectiveness of public health interventions.

Dr. Lichtveld then discussed community-driven approaches in environmental health by describing four project components that are crucial to environmental health interventions: (1) community health needs assessments, (2) environmental health education, (3) clinical evaluations, and (4) clinical speciality referrals.

Dr. Lichtveld stressed the importance of the role of public values and popular opinions as they are related to public health. She noted that societal factors are crucial in implementing community interventions as is taking a holistic rather than an individual approach. She also presented an integrated framework for environmental health that focuses on health promotion, health education, risk communication, and medical intervention.

Finally, in the area of future possibilities and opportunities, Dr. Lichtveld stated that government agency actions should be based on early systematic planning by bringing together community health concerns, environmental health interventions, and enforcement strategies.

Ms. Mayfield asked for a list of universal indicators for health. Dr. Lichtveld mentioned that the U.S. Department of Health and Human Services (HHS) identified ten leading health indicators including environmental quality, obesity, mental health, and access to health care. These indicators are associated with a comprehensive list of objectives and are published in the "Healthy People 2010 Initiative," she said.

Ms. Mood asked whether communities could complete health and environmental assessments for themselves. Ms. Mayfield indicated that the community of Chester, Pennsylvania, had already done so. The effort, she continued, included the collection of TRI data, data from the U.S. Census Bureau, data on low birth weight, and other information. Mr. Cole said that the Enforcement Subcommittee was to recommend feasible ways to target enforcement indicators, such as low-birth weight and infant mortality rates. Mr. Cole asked whether there are data available to make "targeting" possible and whether "targeting" is a good idea. Dr.

Lichtveld responded that, while some communities have a wide variety of data, existing data often are not sufficient in most cases nationwide. Dr. Lichtveld noted that all entities, including EPA, public health agencies, and communities, must come to an agreement about “targeting” and if communities are to be treated fairly, agencies must consider all data. Finally, Dr. Lichtveld stated that public health should precede enforcement because decisions about “targeting” will otherwise not benefit from crucial public health data and information.

4.1.4 Presentation on the Richmond County Health Department Health Intervention Project

Ms. Juanita Burney, Coordinator of the Richmond County, Georgia Health Department, presented information about the Richmond County Health Department Health Intervention Project. The project addressed health concerns of former and current residents of a community in Richmond County who were exposed to many toxic substances, she said. She explained that some of the citizens were believed to have become ill because of exposure to the toxic substances. Those sicknesses might have been prevented if cause and effect between exposure and the sicknesses had been established, she said.

Ms. Burney identified the participants in the project as residents living in a 1.4 mile radius of exposure to contaminants who participated over a specific period of time. The residents’ drinking water was being affected and was tested; the tests revealed that the drinking water was contaminated, she said. Ms. Burney then explained that all other media were tested, as well. She said the citizens were concerned about who would help them with the contamination, since many industrial companies failed to admit blame or take action. Because of the contamination, she explained that residents of the community drink city water instead of well water.

Ms. Burney indicated that a number of people were involved in the project development and oversight: a director, a coordinator, a lead nurse, a panel of citizens (The Citizens Alliance for Community Health), a medical advisory committee, and staff of the Agency of Toxic Substances and Disease Registry (ATSDR). Other project staff included data assistants, doctors, nurse practitioners, and specialists, she added.

Ms. Burney then turned her attention to a discussion of the components of the project. The components included Census data, an enrollment questionnaire,

community health education, medical examinations, follow-up medical visits, and medical referrals.

Ms. Burney then discussed community concerns that were brought to light as a result of the health intervention project. With respect to health issues, the community was concerned most deeply about cancer, dermatological problems, and mental health issues, she said. The community also was concerned about property issues related to damage, decreased values, insurance coverage, inability to sell property, limits on outside activity, and relocation.

Ms. Burney made the following suggestions that she believed could improve upon future public health and environmental studies: (1) adequate environmental and health education provided to both citizens and medical professionals; (2) use of a laymen’s approach instead of a technical approach; (3) obtain information that is specific to the industries involved; and (4) ensure that citizens in affected communities know their rights.

Finally, Ms. Burney explained the positive and negative factors of the project according to the perspective of the community. Members of the community had a positive opinion about the no-cost physical examinations, the concern shown for the community, and the project’s knowledgeable staff. Members of the community also expressed their concerns and suggestions for improving such projects. The inability of the project staff to have physicians to assist with relocation; the need of citizens for more mental health assistance; the limited duration of the projects; and the communities need to demonstrate interest, care, and compassion were among the concerns expressed by the members of the community, reported Ms. Burney.

4.2 Presentation on Concentrated Animal Feeding Operations

This section summarizes presentations on CAFOs provided to the Enforcement Subcommittee by Mr. Gary Grant, Executive Director, Concerned Citizens of Tillery, and Dr. Steve Wing, Associate Professor, Department of Epidemiology, University of North Carolina.

After noting EPA’s lack of support thus far on the issue of CAFOs, Mr. Grant stated his belief that EPA is “behind” in enforcement related to CAFOs. He then stated his desire to see the enforcement process move faster with respect to CAFOs, especially because of issues related to health problems and decreased land values. Mr. Grant then introduced Dr. Wing.

Dr. Wing first provided an overview of hog farming. He stated that the numerous confining houses in existence contain thousands of hogs. Wastes from confinement facilities are thrown into waste pits and then deposited into spray fields, he said. Dr. Wing noted that the state of North Carolina has required liners in waste pits since 1992, and, in some cases plastic or synthetic liners are used. Dr. Wing explained that the waste sometimes undergoes anaerobic decomposition. Occasionally, however, he continued, the pits fill up, and the waste is pumped onto spray fields and used as a fertilizer for crops. That practice, he declared, could lead to saturation of farm lands with wastes.

Next, Dr. Wing explained why the operations of the hog industry in North Carolina is an example of environmental injustice. He stated that the concentration of hog production in the state has affected primarily poor, nonwhite, rural communities because the production operations cause excessive pollution and offensive odors. The majority of CAFOs currently are concentrated in North Carolina's coastal plain region. Their location further concentrates the waste and increases the potential for damage because the region is subject to flooding, continued Dr. Wing. The waste from CAFOs can contaminate groundwater with nitrates and pathogens, he said. Odorants also are an issue, he explained, because airborne emissions contain volatile organic compounds (VOC), ammonia, and hydrogen sulfide; these odorants can cause health issues, not only for CAFO workers, but also for residents in the vicinity of such operations. The presence of CAFOs can lower land values and decrease the quality of life and can affect the health of residents and workers who already suffer from poor nutrition, low wages, and lack of access to sufficient medical care, continued Dr. Wing.

Dr. Wing explained that the organization, Concerned Citizens of Tillery in Tillery, North Carolina, wanted public health issues associated with the hog industry documented. To investigate those health issues, households were surveyed door-to-door to identify symptoms and reduced quality of life characteristics common to households allegedly affected by CAFOs. The households, Dr. Wing explained, were located in three rural communities: one in the vicinity of a 6,000-head hog operation, one near two intensive cattle operations, and a third in an area in which no livestock operations are located. The response rate was very high, continued Dr. Wing, and 155 interviews were completed. The majority of respondents were female African-Americans, he said. Dr. Wing noted that adjustments were made in the study to account for differences in age and gender; employment status; and whether

respondents were smokers. In addition, the study detailed only acute effects, it did not account for chronic disease, he pointed out.

Dr. Wing then described the symptoms that were observed in the three communities. The occurrences of many symptoms were higher in the community in the vicinity of the hog operations than in other communities, while some occurrences were higher for the community near the cattle operations than in the community in the area having no livestock operations. Symptoms reported are listed in Exhibit 4-4. Dr. Wing explained that the symptoms were divided into six groups: upper respiratory and sinus, lower respiratory, gastrointestinal, skin and eye irritation, and quality of life. The percentage of respondents who reported upper respiratory and sinus episodes was the largest in the community near the hog operation, while the community near the cattle operation showed more intermediate results. The number of respondents who reported lower respiratory, gastrointestinal, and skin and eye irritation symptoms was generally smaller. Incidences of gastrointestinal symptoms was the

Exhibit 4-4

REPORTED SYMPTOMS IN COMMUNITIES LOCATED NEAR CATTLE AND HOG OPERATIONS

The following describes reported symptoms in communities located near cattle and hog operations:

Stuffy nose/sinuses Runny nose Burning nose	Significantly higher for the community near the hog operation.
Sore throat	Higher for the community near the hog operation.
Mucus/phlegm Excessive coughing Shortness of breath Skin/eye irritation	More episodes for the community near the hog operation, less significant for the community located near the cattle operation.
Gastrointestinal (heartburn, lack of appetite, nausea or vomiting, diarrhea)	All symptoms were significantly higher for the community near the hog operation.
Quality of life (cannot open windows or go outside)	The community near the hog operation reported more than 12 times the number of episodes reported by the other two communities.

highest among the residents of the community near the hog operation. However, Dr. Wing indicated that the largest differences among the three communities occurred in the reported occurrences of a decrease in the quality of life symptoms, which included not being able to open windows or go outside. More than 50 percent of the residents of the community near the hog operation reported that they could not open windows or go outside, compared with the 20 percent of residents in the other two communities.

Dr. Wing next discussed several enforcement issues associated with CAFOs. He indicated that in 1995, there had been tremendous concern about spraying and the potential that waste would seep into the ground and affect the groundwater. Spray fields are not lined and are sometimes built in areas where there are drained wetlands and that livestock operations have been built in areas in which floods often occur, he said. Dr. Wing noted that the operations are not designed to contain waste; rather the operations often dump waste onto the spray fields. Cesspools must be emptied so they will not be affected by flooding, he noted. Dr. Wing stated that, during winter months, discharges to the environment often occur. Wastes are dumped into fields and spread in trenches. Eventually, he said, they reach local water supplies. Dr. Wing also noted that enforcement may be lacking because (1) most agricultural businesses see themselves as nondischargers and (2) the North Carolina Department of Natural Resources is supported in part by lawyers who represent the North Carolina Pork Council.

Dr. Wing then discussed the distribution of farms and ethnic populations. He noted that there is a large concentration of CAFOs in eastern North Carolina, where the highest percentage of African-Americans live. There are almost no livestock operations in white areas, continued Dr. Wing. He stated that CAFOs are located in poor areas having high percentages of minority populations that do not have ample political representation. He also explained that areas in which livestock operations are located are 85 to 100 percent dependent on well water. Within Tillery, North Carolina, he continued, 35 hog farms create 170,000 tons of waste per year, predominantly in communities that are nonwhite, and those farms use well water. Ms. Harris asked whether the state of North Carolina was concerned about wells in areas in which hog farms are located. Dr. Wing responded that the state of North Carolina had implemented a testing program for neighbors of hog farms who depend on wells. However, because of a lack of adequate enforcement and public education, he observed, many people did not participate in the well testing. Dr. Wing also noted

that many counties do not cooperate with the state because of pressure from pork farmers.

Mr. Grant asked that the subcommittee act on behalf of people living near CAFOs, in part because the communities have done all they can and now need the help of others. Dr. Wing also noted that health issues associated with both water and air must be explored. Thus far, attention has been concentrated on water pollution, he pointed out. Mr. Cole noted that the subcommittee's proposed resolution on CAFOs was the first step in enforcement and indicated that a larger report supporting the issue would be the next step.

4.3 Update on the U.S. Environmental Protection Agency Guidance Related to Title VI of the Civil Rights Act of 1964 and Health Effects Associated with Lack of Enforcement of Title VI

Ms. Goode provided an overview of the status of EPA's guidance to address administrative complaints filed under Title VI which challenge permits and also discussed OCR's current case load and backlog.

Ms. Goode described the Federal Register package that would contain EPA's revised draft guidance related to enforcing Title VI. Exhibit 4-5 describes the new draft guidance. She also stated that the Federal Register will identify times and dates of listening sessions and conference calls to discuss the guidance documents. She explained that a robust external process of review of the *Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits* had taken place for the past two years. That process, she said, had included stakeholder meetings and the convening of the Title VI Implementation Advisory Committee. An extensive internal review process also had occurred, including five meetings with the EPA Administrator since May 1999. Ms. Goode stated that she also had met with representatives of the Office of Management and Budget and members of the congressional Black Caucus to discuss the guidance. She noted that members of Congress were being contacted to obtain their comments on the guidance and stated that a civil rights status report soon would be placed on EPA OCR's Internet home page. An electronic mailbox also will be established on the home page to solicit comments on the new draft guidance documents.

Ms. Goode then discussed the changes to the draft guidance. Ms. Goode explained that it has been suggested that a list of definitions be added to the guidance; the guidance be made more concrete; and

U.S. ENVIRONMENTAL PROTECTION AGENCY TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 GUIDANCE DOCUMENTS

The U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) will publish two draft Title VI of the Civil Rights Act of 1964 (Title VI) guidance documents in the Federal Register on June 27, 2000. EPA will accept public comments for 60 days, until August 28, 2000. The draft documents are titled:

- *Draft Title VI Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs* (“*Draft Recipient Guidance*”)
- *Draft Revised Guidance for Investigating Title VI Administrative Complaints Challenging Permits* (“*Draft Revised Investigation Guidance*”)

Title VI prohibits discrimination based on race, color, or national origin by any entity that receives Federal financial assistance. When entities (such as, state environmental agencies) receive EPA financial assistance, they accept the obligation to comply with Title VI and with EPA’s Title VI implementing regulations. Persons who believe EPA recipients are administering their programs in a discriminatory manner may file an administrative complaint with EPA.

In 1998, EPA issued its *Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits* (“*Interim Guidance*”) for public comment. The *Interim Guidance* provided an initial framework for EPA OCR to process complaints filed under Title VI that allege discriminatory environmental and health effects from environmental (pollution control) permits issued by EPA financial assistance recipients.

EPA has revised the *Interim Guidance* based upon a robust stakeholder input process, as well as the public comments received on the *Interim Guidance*. EPA convened an advisory group to provide recommendations and has conducted numerous meetings with a variety of stakeholders over the past two years.

What is the purpose of these documents?

The *Draft Recipient Guidance* is intended to offer suggestions to assist state and local recipients of EPA financial assistance develop approaches and activities to address potential Title VI concerns. Examples include fostering effective public participation, conducting assessments of potential adverse impacts, developing geographic, area-wide pollution reduction programs, and using informal resolution techniques. Recipients are not required to adopt or implement any of the Title VI approaches or activities described in the *Draft Recipient Guidance*.

The *Draft Revised Investigation Guidance* describes procedures EPA staff may use to perform investigations of Title VI administrative complaints that allege adverse, disparate impacts caused by permitting decisions.

In response to comments received by EPA, the *Draft Revised Investigation Guidance* differs from the *Interim Guidance* by providing more detail and clarity. The new guidance contains more detailed explanations of the various steps of an investigation and the actions that may be considered at each stage (such as, how a finding of adverse impact is expected to be reached, or when an allegation will likely be dismissed). In addition, both guidance documents define terms through examples and a glossary.

More than 120 written comments on the *Interim Guidance* were received from a broad range of interested parties. Community groups, environmental justice organizations, state and local governments, industry, academia, and other interested stakeholders also contributed to the development of the draft guidance documents as part of the Title VI Implementation Advisory Committee established by EPA, as well as through many other meetings with stakeholders during the past two years.

that the guidance specify community involvement in the case investigation as early as possible. EPA also is suggesting ways in which state programs can improve their efforts and track their records on civil rights cases, she said. Ms. Goode asked that all comments submitted on the new draft guidance be very focused to facilitate the process of approval; comments should be submitted within the 60-day comment period, said Ms. Goode, because the Agency would like to release the final guidance document in the Federal Register by the end of the calendar year. She noted that the 60-day comment period would not begin until the document is released in the Federal Register for comments. The guidance, she added, also would be made available on EPA's Internet homepage.

Ms. Goode then explained that the outreach strategy will be crucial in soliciting comments on the new guidance documents. She reported that she had planned several meetings across the country. Such meetings, she continued, were to be held in Washington D.C.; Dallas, Texas; Chicago, Illinois; New York, New York; and Oakland, California to solicit comments from various groups and to address those comments.

With respect to civil rights cases, Ms. Goode explained that actual facts must be the focus of EPA's inquiry into a case. She stated that the allegations of the complaint, the availability of methodologies, and the resources necessary to perform a reasonable investigation of the case are factors that affect EPA's work on various cases. Mr. Cole mentioned some specific civil rights cases and then asked about the issue of backlog. Ms. Goode responded that strategies adopted to attempt to decrease backlog had failed. She explained that cases continue to be unique and complex, and she expressed the hope that those cases will serve as good examples to expedite future cases. Mr. Cole asked what was the greatest impediment to efforts to decrease backlog, noting that 27 cases are pending review and 21 cases are at the accept or reject stage. Ms. Goode responded that the current staff and resources are insufficient. She also explained that no adequate framework had been established for resolving the cases. Ms. Goode then stated that, when she first joined OCR, she had inherited a backlog that since had continued to increase in number and complexity. She also cited delays because of a large learning curve, since a history of resolved cases is lacking. Mr. Cole noted that he was troubled to hear that Ms. Goode continues to wait for a proper framework through which to resolve cases, since she had been waiting for such a framework when she joined the program. Ms. Goode explained that the framework continues

to evolve and must include decisions about the approach to the case and who to involve to obtain support in resolving the case. She said that she had requested more staff from various media offices to help decide whether analytical tools and policy issues relating to civil rights cases should be more defined in greater detail. She stated further that staffing issues and the daunting nature of tasks associated with the cases has hindered the schedule.

In response to a question from Ms. Mayfield about whether health is used as a criterion, Ms. Goode responded that she had spoken with several people about that matter. She cited difficulty in gathering public health data because data identified usually are not adjusted for race or age. She also explained that locating and categorizing data are difficult and, while she acknowledges that a relationship between health issues and the problems occurring must be demonstrated, she also reported that the current health of a community is not considered as a criterion in the new draft guidance.

Expressing concern about the backlog of civil rights cases at EPA, Ms. Harris asked whether the support of part-time attorneys could be called upon. Ms. Goode responded that she did have attorneys working on cases. Ms. Mayfield then asked about the status of cases in which complaints were filed years ago, but the cases still have not been resolved. Ms. Goode explained that those cases are not disregarded. She added that final decisions on those cases will be based on historical circumstances.

Mr. Cole noted that, until the Agency has credible enforcement related to Title VI, EPA will not have credible environmental justice enforcement. The civil rights of citizens are being ignored and the civil rights of communities of color are being violated, he declared. Mr. Cole cited 94 complaints in seven years, none of which, he pointed out, had been resolved. He observed that, in seven years, some cases should have been resolved. He observed that he was speaking for the subcommittee and noted that the members of the subcommittee were looking forward to response and action from OCR. Ms. Goode responded that she did not excuse EPA for its lack of progress, adding that she was mindful of the subcommittee's concerns and hopes to move forward quickly.

5.0 RESOLUTIONS AND SIGNIFICANT ACTION ITEMS

This section summarizes the resolutions discussed by the Enforcement Subcommittee and forwarded to the Executive Council of the NEJAC for consideration. In addition, this section discusses significant action items adopted by members of the subcommittee.

The members of the Enforcement Subcommittee discussed a resolution in which the NEJAC recommends to the EPA Administrator that several actions be taken related to the issue of CAFOs. The Enforcement Subcommittee amended a proposed resolution on CAFOs to reflect concerns of the Air and Water Subcommittee. Amendments made to the resolution include:

- Direct the EPA Office of Air and Radiation (OAR) to conduct analyses of its authority to protect communities from odor and toxic emissions.
- Mandate groundwater monitoring at CAFO operations.
- Incorporate community concerns in guidelines for the siting of CAFOs.
- Prevent states from starting new CAFO programs through aggressive Federal crackdowns on states that allow facilities to operate without National Pollutant Discharge Elimination System (NPDES) permits.
- Establish a CAFO hotline for reporting violations of environmental laws to EPA.
- Aggressively audit facilities of CAFO owners that have poor compliance records, particularly those located in environmental justice communities, to target them for shutdown.
- Protect the integrity of Federal authority delegated to states by removing permitting authority from states that flaunt the NPDES process with regard to CAFOs.
- Establish triggers for imposition of penalties by the state, and triggers for EPA action.
- Survey other Federal agencies to identify subsidies of CAFOs that may conflict with requirements for compliance with Federal environmental laws.

- Require NPDES permits for land disposal of CAFO waste.

The members discussed a resolution on multiple chemical sensitivity (MCS) through which the NEJAC recommends to the EPA Administrator that EPA:

- Establish disease registries and make MCS a “reportable condition.”
- Investigate and report the prevalence and incidence of MCS in minority communities and low-income communities, especially those heavily affected by environmental pollutants.
- Provide funding and programs to support increased understanding, education, and research that will aid in identifying causes, diagnosis, treatment, accommodation, and prevention of MCS.
- Include MCS as a factor when establishing standards and developing regulations, especially with regard to multiple exposures to and cumulative effects from environmental chemicals.
- Examine existing environmental laws and revise or add standards, as appropriate, ensure protection from chemicals that cause initial sensitization and those that trigger existing sensitivities.
- Encourage states and other government and nongovernment entities to take regulatory and voluntary actions, including notices and restrictions as necessary, to protect individuals who have MCS in the workplace, the home, and public places.
- Ensure that accurate information about minority and low-income populations is included in the final version of the report of the Interagency Workgroup on MCS and other policy documents issued on the matter of MCS.
- Establish a fragrance-free policy for meetings and identify and use facilities that actively attempt to reduce and minimize use of toxic chemicals, for example, those that use non-toxic building materials, cleaning agents, and pest control measures.

The members of the subcommittee also adopted the following significant action items:

- ✓ Requested that EPA provide the time table for its strategic planning process for the budget.

- ✓ Requested that the state of New Hampshire provide one example of an ECOS or NAPA report on state enforcement for comparison to an EPA inspector general report on state enforcement.
- ✓ Requested that EPA provide a “report card” on enforcement of environmental laws and regulations by states.
- ✓ Assigned Ms. Mood and Ms. Mayfield to identify ways to incorporate the views of communities of color and low-income communities about health-based targeting into the subcommittee’s strategic plan.
- ✓ Agreed to prepare a letter to the EPA Administrator to request an update on the Agency’s analysis of whether enforcement fines are equitable and consistent in minority and nonminority areas.
- ✓ Proposed that Ms. Harris represent the Enforcement Subcommittee on the proposed Federal facilities work group of the NEJAC.
- ✓ Assigned Mr. Varney, Ms. Mayfield, and Ms. Mood to gather information about EPA’s “bad actor” regulation for the subcommittee’s strategic plan.
- ✓ Agreed to draft a letter to be addressed to each FACA at EPA to request that an environmental justice perspective be represented on each FACA committee. In the letter, the Environmental Law Institute report *Building Capacity to Participate in Environmental Protection Agency Activities: A Needs Assessment and Analysis* should be referred to with regard to broader community representation in environmental decision making.
- ✓ Asked that Mr. Varney provide examples of interagency coordination and cooperation on the state level to assist the subcommittee in preparing for the December 2000 meeting of the NEJAC.
- ✓ Agreed to continue drafting a report on lack of enforcement of Title VI by EPA. The report will outline the background and history of Title VI enforcement issues and provide recommendations for future action and response by EPA.
- ✓ Agreed to draft a letter to EPA to request that the Agency meet with members of the community of Anniston, Alabama and representatives of the Alabama Department of Environmental Management (ADEM). Agreed further to request that a representative of EPA provide an update on the activities in Anniston, Alabama, to the NEJAC.
- ✓ Agreed to draft a letter to the citizens of Anniston, Alabama, to thank them for the opportunity to visit their community and to encourage them to keep in contact with members of the NEJAC.
- ✓ Submitted to the Executive Council of the NEJAC for approval a letter addressed to the EPA Administrator that outlines the concerns of the Enforcement Subcommittee about EPA’s implementation of its Tier 2 Clean Fuels Initiative.
- ✓ Ms. Goode made a commitment to convene a meeting in July 2000 in southern California to discuss the outreach strategy to solicit views and comments on the new guidance for Title VI.

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MEETING SUMMARY

of the

HEALTH AND RESEARCH SUBCOMMITTEE

of the

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

**May 25, 2000
ATLANTA, GEORGIA**

Meeting Summary Accepted By:



**Lawrence Martin
Co-Designated Federal Official
Office of Research and Development
U.S. Environmental Protection Agency**



**Aretha Brockett
Co-Designated Federal Official
Office of Pollution Prevention
and Toxic Substances
U.S. Environmental Protection
Agency**

**Chen Wen
Co-Designated Federal Official
Office of Pollution Prevention
and Toxic Substances
U.S. Environmental Protection Agency**

**Marinelle Payton
Chair**

**CHAPTER FIVE
MEETING OF THE
HEALTH AND RESEARCH SUBCOMMITTEE**

1.0 INTRODUCTION

The Health and Research Subcommittee of the National Environmental Justice Advisory Council (NEJAC) conducted a one-day meeting on Thursday, May 25, 2000, during a four-day meeting of the NEJAC in Atlanta, Georgia. Dr. Marinelle Payton, School of Public Health, Harvard University Medical School, continues to serve as chair of the subcommittee. Mr. Chen Wen, U.S. Environmental Protection Agency (EPA) Office of Pollution Prevention and Toxic Substances (OPPTS), and Mr. Lawrence Martin, EPA Office of Research and Development (ORD), continue to serve as the co-Designated Federal Officials (DFO) for the subcommittee. Exhibit 5-1 presents a list of the members who attended the meeting and identifies those members who were unable to attend.

This chapter, which provides a summary of the deliberations of the members of the Health and Research Subcommittee, is organized in five sections, including this *Introduction*. Section 2.0, *Remarks*, summarizes the opening remarks of the chair. Section 3.0, *Activities of the Subcommittee*, summarizes the reports on and discussions of the activities of the subcommittee, such as the development of the decision tree framework for community-directed environmental health assessment. Section 4.0, *Interagency Forum on Partnerships in Public Health*, presents an overview of discussions held between the subcommittee and representatives of various government agencies about building partnerships between such agencies and communities to address public health issues. Section 5.0, *Resolutions and Significant Action Items*, summarizes the resolutions forwarded to the Executive Council of the NEJAC for consideration and the significant action items adopted by the subcommittee.

The members of the subcommittee also participated in a joint session with the Waste and Facility Siting Subcommittee of the NEJAC to discuss the exposure investigation of Mossville, Calcasieu Parish, Louisiana, conducted by the Agency for Toxic Substances and Disease Registry (ATSDR) in November 1999. Chapter Nine of this document provides a summary of the deliberations of the joint session.

Exhibit 5-1

HEALTH AND RESEARCH SUBCOMMITTEE

**Members
Who Attended the Meeting
May 25, 2000**

Dr. Marinelle Payton, **Chair**
Ms. Rose Augustine, **Vice-Chair**
Mr. Lawrence Martin, **co-DFO**
Mr. Chen Wen, **co-DFO**

Mr. Lawrence Dark
Dr. Michael J. DiBartolomeis
Mr. Carlos Porras
Ms. Peggy Shepard
Ms. Jane Stahl

**Members
Who Were Unable To Attend**

Mr. Philip Lewis
Mr. Jess Womack

2.0 REMARKS

Dr. Payton opened the subcommittee meeting by welcoming the members present, as well as Mr. Wen and Mr. Martin. Dr. Payton also welcomed the representatives of various government agencies present for the meeting and explained that those individuals would participate in the interagency forum on partnerships in public health to be conducted as part of the meeting of the subcommittee.

3.0 ACTIVITIES OF THE SUBCOMMITTEE

This section discusses the activities of the subcommittee, which included a report from the subcommittee's Working Group on Community Environmental Health Assessment on the evaluation of and recommendations for the decision tree framework for community-directed environmental health assessment and a discussion of concerns expressed during the public comment period of the NEJAC about environmental justice issues related to Federal facilities.

3.1 Report of the Working Group on Community Environmental Health Assessment on the Decision Tree Framework for Community-Directed Environmental Health Assessment

Dr. Payton stated that the goal of the Decision Tree Framework for Community-Directed Environmental Health Assessment is to develop a framework to provide communities with an approach to identify, prevent, and solve direct and indirect environmental problems. She indicated that its structure is a step-wise framework to assess and prioritize environmental health concerns and evaluate possible options and actions. At each step, the user is referred to a repository to determine available tools, models, and data for each problem formulation and assessment strategy, Dr. Payton stated.

Dr. Payton presented the past and present developmental stages as well as the next steps in the development of the decision tree framework. She mentioned that the past activities included the formulation of the subcommittee's Working Group on Community Environmental Health Assessment and a Sample Draft Decision Tree; the present activities include beginning the actual writing with close emphasis on its language, content, and complexity, as well as to incorporate the working group's recommendations and advice.

She further stated that the next steps include: developing a prototype for community trials; identifying community and government resources; linking with local, state, federal, tribal, and regional resources, universities, and health departments; promoting the product to community users; providing technical assistance to communities in implementation of tool; evaluating the tool by both the users and the agencies; and building mechanism that provide feedback to government agencies regarding research and data gaps, needs and prioritization.

Continuing, Dr. Payton, emphasized the key outcomes of the Decision Tree Framework:

- Empower communities for effective leadership.
- Strengthen linkages between agencies (environmental and public health) and affected communities.
- Identify deficiencies in the existing repository.
- Guide subsequent research and related work.

Mr. Carlos Porrás, Communities for a Better Environment, presented the report of the Working Group on Community Environmental Health Assessment on that group's evaluation of the decision tree framework. Mr. Porrás explained that the working group had met to assess the structure, content, and language of the decision tree framework and to discuss the next steps in the development of the decision tree framework.

Mr. Porrás listed the crucial issues that the working group had identified and discussed during its evaluation of the decision tree framework. Those issues, he reported, had included:

- The Health and Research Subcommittee and Working Group on Community Environmental Health Assessment should maintain direct control of the development and design of the decision tree framework.
- Once completed, the decision tree framework should be made accessible to all communities.
- The decision tree framework should be provided to communities both as hard copy and in electronic format.
- The draft design and language of the decision tree framework in its present form are too complex and technical for communities to use easily.
- The appropriate applications and limitations of the decision tree framework must be communicated effectively to users of the framework. The target audience also must be identified more clearly.
- The level of resources available for the design and development of the decision tree framework should be determined.
- A plan for "piloting" the decision tree framework should be specified explicitly during the development of the framework.

Continuing, Mr. Porrás stated that the working group had made the following recommendations to the Health and Research Subcommittee for the next phase of development of the decision tree framework.

- The Health and Research Subcommittee should establish a time line for the development and completion of the decision tree framework.

- The Health and Research Subcommittee should identify and secure from EPA the resources necessary for the future development of the decision tree framework. Further, the subcommittee should develop and recommend a budget for the development of the decision tree framework.
- The Health and Research Subcommittee should invite representatives of communities and of agencies other than EPA to become involved in the development of the decision tree framework.
- The Health and Research Subcommittee should evaluate the level of language used in the decision tree framework to ensure that it is community-friendly and appropriately revise the language presented in the draft version of the decision tree framework.
- The Health and Research Subcommittee should develop a strategic plan for “piloting” the decision tree framework.
- The Health and Research Subcommittee should recommend that EPA support the decision tree framework as a priority issue.
- The Health and Research Subcommittee should recommend that EPA extend the terms of Dr. Payton and Mr. Porras and the term of the working group to ensure continuity in the development of the decision tree framework.

Members of the subcommittee agreed to prepare for consideration by the Executive Council of the NEJAC a proposed resolution to make recommendations to EPA for the future development of the decision tree framework as a priority for EPA.

A member of the audience requested that the decision tree framework be culturally sensitive. She cautioned that cultural sensitivity should be incorporated into the framework, inclusive of all cultural differences, before introducing the framework to communities. Dr. Payton assured the participant that the development of the prototype of the framework had taken cultural differences into consideration.

3.2 Discussion of Federal Facilities

In light of comments submitted to the Executive Council of the NEJAC about Federal facilities, the members of the subcommittee agreed to establish a work group on Federal facilities. The members of the subcommittee agreed to invite members of other subcommittees of the NEJAC; representatives of

communities that have environmental justice concerns related to Federal facilities; representatives of EPA Federal Facilities Enforcement Office (FFEO); and ATSDR’s Office of Federal Facilities to participate in the work group.

The members of the subcommittee also agreed to develop separate resolutions to recommend that EPA (1) include criteria in permitting processes to protect communities struggling with comparatively poor health from the further burden of additional facilities that release pollutants and (2) establish an effective national facility registration system for all operating facilities that emit toxic chemicals and make information about such facilities both accessible and understandable to the public. The subcommittee also resolved to recommend that the next meeting of the NEJAC be focused on issues related to environmental justice concerns at Federal facilities.

4.0 INTERAGENCY FORUM ON PARTNERSHIPS IN PUBLIC HEALTH

This section summarizes the discussions conducted during the interagency forum, “Healthcare: Establishing Partnerships with Minorities, Tribal, and Low-Income Communities,” held to explore the establishment of partnerships between government agencies and communities to address public health issues. During the discussions, the members of the subcommittee and representatives of government agencies examined the role of each agency in addressing public health issues; research needs; a strategic plan to consider the next steps in making public health a priority of government agencies; community-based health assessment; and pollution prevention and intervention in minority and low-income communities. Exhibit 5-2 presents a list of agency representatives who participated in the forum.

Dr. William Sanders, Director, Office of Pollution Prevention and Toxics (OPPT), EPA OPPTS, began the interagency forum by sharing some observations that he had made during the panel sessions presented at the meeting of the Executive Council of the NEJAC on May 24, 2000. He made the following points:

- In general, government agencies make an effort to fit public health problems into the existing scientific structure, rather than structure the science to address public health issues.
- Agencies must manage public expectations better.

Exhibit 5-2

**AGENCY REPRESENTATIVES WHO
PARTICIPATED IN THE INTERAGENCY
FORUM ON PUBLIC HEALTH**

Dr. Henry Falk, Agency for Toxic Substances and
Disease Registry (ATSDR)
Mr. Francisco Tomei, ATSDR
Dr. Ruben Warren, ATSDR
Ms. Rebecca Lee-Pethel, Center for Disease Control
and Prevention
Mr. Richard Gragg, Florida A & M University
Dr. Jeanean Willis, Health Resources and Services
Administration
Dr. John Kerner, National Cancer Institute
Dr. Charles Wells, National Institute of Health
Dr. William Sanders, U.S. Environmental Protection
Agency (EPA) Office of Pollution Prevention
and Toxic Substances
Dr. Harold Zenick, EPA Office of Research and
Development

- Government moves too slowly. Agencies must improve the conditions that affect public health, rather than merely studying those conditions. If government remains content with the status quo, such as random samples, court challenges, and peer reviews, much time will pass before there is improvement in public health.
- In addition to research, government agencies should focus their activities on action. For example, regulatory agencies must look beyond compliance and work with representatives to encourage industry to be cleaner within operations. He noted as an example OPPT's voluntary cleanup program.

Mr. Charles Lee, Associate Director for Policy and Interagency Liaison, Office of Environmental Justice (OEJ), EPA Office of Enforcement and Compliance Assurance (OECA), agreed with Dr. Sanders' observations, stating that some concrete recommendations related to public health had been made during the panel sessions. Mr. Lee also stated that he would like the members of the Health and Research Subcommittee to address the comments and recommendations made by the panelists to develop solutions to address issues related to public health and environmental justice. He also urged the members of the subcommittee to identify possible solutions to such questions as, "If existing science does not 'fit' the problem and government moves too slow, then how can the NEJAC affect change related to environmental health issues?"

Dr. John Kerner, Assistant Deputy Director, National Cancer Institute (NCI), National Institutes of Health (NIH), encouraged the participants to visit NCI's Internet homepage to view that agency's priority list related to environmental justice. He stated that NCI would welcome comments about how environmental issues and disparities in health conditions are related.

Continuing, Dr. Kerner agreed with Dr. Sanders that agencies should determine how to best apply scientific methods to environmental justice situations. He added that government agency scientists should visit and work directly with communities. He commented that there are more communities than there are people working in the agencies. Therefore, he said, agencies must work together to develop effective systems for addressing various public health issues. Such systems, he said, then could become "models" for implementation in other communities. Dr. Kerner suggested that agencies form what he called a "collaborative SWAT team" for evaluating deficiencies in current agency programs; give priority to environmental justice communities and the issues those communities face; and develop appropriate public health systems. Dr. Kerner also suggested the development of a data base of environmental justice communities and their public health problems. Such a tool, he observed, would help the agencies to set priorities among public health issues, as appropriate to their roles in government.

Dr. Harold Zenick, Acting Deputy Assistant Administrator for Science, EPA ORD, explained that ORD primarily serves regulatory and program offices at EPA. However, he continued, ORD could address public health care issues by (1) providing funding to communities through its competitive request for application (RFA) process for public health research (recent efforts in this area have included co-sponsoring community-based RFAs with the National Institute of Environmental Health Sciences [NIEHS]); (2) exploring public health issues that plague a number of communities and creating opportunities in some of those communities to conduct research; and (3) providing expertise and recommendations to regulatory offices that work directly with communities. He also added that the subcommittee should understand that the Agency uses available tools to meet research needs.

Ms. Rose Augustine, Tusconans for a Clean Environment, stated that she was encouraged to hear that the agencies agree that scientists should work directly with communities, commenting that local health departments are "dinosaurs" that do not have the resources or expertise necessary to

address extensive public health issues. She added that Federal agencies seem to “walk away” when a public health problem is identified in a community, referring the community to its local health department. Ms. Augustine stressed that communities need increased resources and assistance after a public health problem is identified.

Dr. Henry Falk, Assistant Administrator, ATSDR, acknowledged Ms. Augustine’s comments, adding that ATSDR could serve as a bridge between local health departments and Federal agencies. He also commented that ATSDR provides funds to state health departments to address environmental health issues. Continuing, he stated that EPA probably would never have the financial resources to add a large number of physicians and epidemiologists to its staff, and must rely heavily on state and local health departments. Referring to Dr. Kerner’s suggestion that an interagency SWAT team be formed to tackle the public health crisis, Dr. Falk stressed that any interagency collaboration should be designed to be sustainable. He also suggested that the types of partnerships developed between agencies be broadened to include issues beyond physical health (for example, education), stating that medicine “can only go so far.” Dr. Michael DiBartolomeis, California Office of Environmental Health Hazard Assessment, added that the issue of prevention also should be included.

Dr. Kerner agreed that a strategic plan for interagency partnerships would be useless if financial resources were not available to fund and sustain the plan. He noted that community-based research is one of the most difficult areas of research to formulate, secure funds for, and submit for peer review. Dr. Kerner stated that Federal agencies must take the lead in changing that system. He also suggested that agencies encourage and facilitate better partnerships between university health care institutions and communities.

Responding to Dr. Kerner’s statements, Mr. Richard Gragg, Environmental Sciences Institute, Florida A&M University, said that many communities distrust both local and Federal government agencies. He suggested that university systems often can play an intermediary role between communities and government agencies and can facilitate the implementation of agency programs. He also stated that universities can play the role of educator for communities, as well as for students.

Dr. Jeanean Willis, Health Resources and Services Administration (HRSA), Office of Minority Health,

commented that ATSDR and HRSA have training partnerships with medical universities to train primary health-care providers to recognize the symptoms of environmental health hazards.

Ms. Augustine suggested that HRSA add environmental justice issues to its “formula” for funding health clinics, adding that health clinics should provide services to support emotional and mental health, as well as physical health. Ms. Augustine also suggested that partnerships can be established between agencies and public school districts, stating that schools could serve as great resources in documenting illnesses and symptoms for a needs assessment.

Dr. Charles Wells, Director of Environmental Health Sciences, NIEHS, NIH, stated that NIEHS had been sponsoring community-based grants for partnerships between communities and academic institutions. However, he added, more grants focused on health care are needed.

Mr. Lee pointed out that many researchers are directed to isolate and research one aspect of a health problem in a community. He asked how agency programs can be structured to assess community health needs more holistically.

Ms. Peggy Shepard, West Harlem Environmental Action, commented that prevention is enforcement and that most environmental justice issues are enforcement issues or issues related to Title VI of the Civil Rights Act of 1964. She asked why the Federal government did not mandate that state governments perform community health assessments and form community partnerships, adding that public hearings should be a part of such a process. Continuing, Ms. Shepard asked why a definite protocol for responding to environmental justice communities that struggle with public health issues had not been established. Ending her remarks, Ms. Shepard suggested that Federal agencies use partnerships to leverage resources for local governments. For example, she added, the U.S. Department of Housing and Urban Development (HUD) could be a key partner in urban settings, where maintenance of housing is a major issue.

Dr. Zenick suggested that the U.S. Department of Health and Human Services (HHS) could add a provision to its center grants program that requires that projects funded by the grants include a community dimension.

Dr. Kerner responded that he believed that communities, not Federal agencies, should perform

community health needs assessments. Once a community has performed an assessment, he continued, local and Federal agencies should assist the community in meeting its health needs.

Referring to Ms. Shepard's statement identifying the need for a protocol for responding to communities, Dr. Kerner stated that risk assessment is the only current, standard model. However, he stated, the protocol for risk assessment should be revised to include economic disparities, social problems, and other factors that also contribute to community health risks, both current and potential.

Dr. Falk suggested that recommendations be categorized in four levels so that the recommendations can be managed and a strategic plan developed. The levels of recommendations included recommendations at (1) the community level, (2) the level of state and local governments, (3) the Federal level, and (4) the systemic level. Dr. Falk suggested that recommendations or suggestions for involving universities be combined with recommendations at the community level.

After a brief break in the proceedings, Dr. Payton suggested that the members of the subcommittee and representatives of the agencies focus the rest of their discussion on identifying specific areas of research that should be pursued to improve community-based research programs. She asked that each agency representative comment on the agency's research priorities.

Dr. Falk stated that ATSDR focuses its research and efforts on improving the following systems:

- The ability to document exposures to humans.
- The availability of documented information to communities and other entities so that ATSDR can serve as a clearinghouse for information related to diseases and the environment.
- Methods of working with local medical professionals to collect local health data effectively.

Dr. Sanders said that OPPT's priority is pollution prevention. Referring to the phrase "I'm sick and tired of being sick and tired," Dr. Sanders noted that action rather than research is OPPT's first priority. He said that OPPT was to focus on developing methods of working with industry to remedy conditions that are making people sick, for example, through source reduction and pollution prevention.

Dr. Zenick first stated that ORD was exploring ways to organize, inventory, and disseminate information to the public, rather than focusing only on research. However, he said, ORD had focused on the following research areas: (1) developing an interagency, human exposure program to characterize the types of chemicals to which the country, as a whole, is exposed; (2) developing a protocol for cumulative and aggregate risk assessment; and (3) assessing the types of environmental exposures that affect children and how children's health is affected. Dr. Zenick added that the challenge that faces ORD is to "think multimedia" and cultivate a multimedia approach when researching sources of contamination.

Mr. Reuben Warren, ATSDR, stated that establishing partnerships with communities to document environmental hazards and developing better methods for collecting data from communities would help to identify areas of need and improve methods of providing health care.

Dr. Wells stated that priority areas for NIEHS are (1) designing programs that are more quantitative than those pursued in the past; (2) working to increase the awareness, empowerment, and research capabilities of communities by working with and training university scientists and medical doctors; (3) communicating the value of such research to academia so that university officials will support that research and those programs; and (4) identifying sources of funds available to communities for disease prevention and awareness.

Mr. Francisco Tomei-Torres, ATSDR, commented that Federal agencies are involved in many activities and services focused on public health, but that agencies should work together to build a unified system for meeting the needs of the community.

The members of the subcommittee and the agency representatives then discussed at length a resolution to request that the NEJAC establish an Interagency Working Group on Public Health to be made up of members of the subcommittee and representatives who had participated in the interagency forum. Ms. Augustine moved that the members of the subcommittee formulate a work group. Mr. Lawrence Dark, Columbia Williamette Area Health Education Center, seconded the motion.

5.0 RESOLUTIONS AND SIGNIFICANT ACTION ITEMS

This section summarizes the resolutions forwarded to the Executive Council of the NEJAC for

consideration, as well as significant action items adopted by the Health and Research Subcommittee.

The members agreed to forward to the Executive Council of the NEJAC the following resolutions, in which the NEJAC requests that EPA:

- Create a work group to address issues related to environmental justice at Federal facilities.
- Support the Decision Tree Framework as a priority issue and extend the terms of the Working Group on Community Environmental Health Assessment.

The members also adopted the following significant action items:

- ✓ Establish an Interagency Working Group on Public Health, which will include members of the Health and Research Subcommittee of the NEJAC and representatives of Federal agencies and medical universities, to develop a strategic plan for implementing an integrated, collaborative, community-based public health agenda.
- ✓ Develop a resolution that recommends that the next meeting of the NEJAC focus on issues of environmental justice related to Federal facilities. In addition, the resolution recommends EPA prepare and submit for signature by President Clinton an Executive Order that requires that all Federal agencies ensure compliance with EPA or state standards, whichever are more stringent, governing site remediation and pollution control and abatement at all Federal facilities, active or inactive, and to further authorize EPA to monitor and enforce the compliance by Federal agencies with all environmental laws and standards.

- ✓ Adopt recommendations from the Working Group on Community Environmental Health Assessment. The recommendations include (1) proposing a resolution to the NEJAC that recommends that EPA support the Decision Tree Framework as a priority issue and (2) extending the terms of the members of the workgroup and the chair of the subcommittee to maintain continuity in the development of the Decision Tree Framework.
- ✓ Establish a working group on Federal facilities. The members of the subcommittee agreed to invite members of other subcommittees of the NEJAC, representatives of the environmental justice community, and representatives of EPA FFEO and ATSDR's Office of Federal Facilities to participate in the work group.
- ✓ Develop a resolution that recommends that EPA include criteria in permitting processes that protect communities struggling with comparatively poor health from the further burden of additional facilities that release pollutants.
- ✓ Develop a resolution that recommends that EPA establish an effective national registration system for all operating facilities that emit toxic chemicals and make information about such facilities both accessible and understandable to the public.
- ✓ Develop a resolution that recommends that EPA support the formation of a NEJAC working group on the Mossville dioxin exposure assessment study.

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MEETING SUMMARY

of the

INDIGENOUS PEOPLES SUBCOMMITTEE

of the

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

**May 25, 2000
ATLANTA, GEORGIA**

Meeting Summary Accepted By:



**Daniel Gogal
Designated Federal Official
Office of Environmental Justice
U.S. Environmental Protection Agency**



**Robert Smith
Alternate Designated Federal Official
American Indian Environmental Office
U.S. Environmental Protection Agency**

**Tom Goldtooth
Chair**

**CHAPTER SIX
MEETING OF THE
INDIGENOUS PEOPLES SUBCOMMITTEE**

1.0 INTRODUCTION

The Indigenous Peoples Subcommittee of the National Environmental Justice Advisory Council (NEJAC) conducted a one-day meeting on Thursday, May 25, 2000, during a four-day meeting of the NEJAC in Atlanta, Georgia. Mr. Tom Goldtooth, Indigenous Environmental Network (IEN), continues to serve as chair of the subcommittee. Mr. Daniel Gogal, U.S. Environmental Protection Agency (EPA), Office of Environmental Justice (OEJ), Office of Enforcement and Compliance Assurance (OECA), continues to serve as the Designated Federal Official (DFO) for the subcommittee, and Mr. Robert Smith, EPA American Indian Environmental Office (AIEO), serves as the newly appointed alternate DFO. Exhibit 6-1 presents a list of the members who attended the meeting.

This chapter, which provides a summary of the deliberations of the Indigenous Peoples Subcommittee, is organized in six sections, including this *Introduction*. Section 2.0, *Remarks*, summarizes the opening remarks of the chair and the DFO. Section 3.0, *Discussions of the Subcommittee Related to Environmental Health*, summarizes both the discussions between members of the subcommittee and technical advisors from Federal agencies involved in the protection of environmental health in Indian country and the discussions among the members about the specific problem of persistent organic pollutants (POP) and persistent bioaccumulative toxins (PBT) that affect environmental health in Indian country. Section 4.0, *Presentations and Reports* presents an overview of each presentation and report received by the subcommittee, as well as summaries of the questions and comments the presentations and reports prompted among the members of the subcommittee. Section 5.0, *Recommendations on Environmental Research Needs in Indian Country*, presents recommendations of the subcommittee on environmental health in Indian country. Section 6.0, *Resolution and Significant Action Items*, summarizes the resolution forwarded to the Executive Council of the NEJAC for consideration and the significant action items adopted by the subcommittee.

Exhibit 6-1

INDIGENOUS PEOPLES SUBCOMMITTEE

Members

**Who Attended the Meeting
May 25, 2000**

Mr. Tom Goldtooth, **Chair**
Ms. Jennifer Hill-Kelley, **Vice-Chair**
Mr. Daniel Gogal, **DFO**
Mr. Robert Smith, **Alternate DFO**

Mr. Brad Hamilton
Ms. Sarah James
Mr. Charles Miller
Mr. Dean Suagee
Mr. Moses Squeochs
Ms. Jana Walker

2.0 REMARKS

Mr. Goldtooth opened the subcommittee meeting by welcoming the members present and Mr. Gogal and Mr. Smith. After making administrative remarks, he asked Mr. Gogal to review the guidelines of the NEJAC to remind the members and observers of the protocol to be followed. Mr. Gogal stated that the meeting was conducted for the members of the Indigenous Peoples Subcommittee and that the comments of observers, rather than open discussion, would be welcome.

**3.0 DISCUSSIONS OF THE SUBCOMMITTEE
RELATED TO ENVIRONMENTAL HEALTH**

This section summarizes the discussions between members of the subcommittee and technical advisors from Federal agencies involved in the protection of environmental health in Indian country and the discussions among the members about the specific problem of POPs and PBTs that affect environmental health in Indian country. (Section 3.2 provides a definition of POPs.)

3.1 Presentations Environmental Health and Research in Indian Country

Mr. Michael Rathsam, Senior Environmental Health Officer, Division of Environmental Health Services, Indian Health Service (IHS), U.S. Department of Health and Human Services (HHS) discussed the role of IHS in ensuring environmental health in Indian country, and stated that IHS is responsible for assisting tribes in health matters. Mr. Rathsam described how IHS solicits by letter the views of tribes about health issues the tribes wish to be given priority. He noted that it seems tribes have only that single opportunity to identify their priorities. To remedy that problem, he suggested, a representative of IHS's Environmental Health Office should be present during the health priority assessment for each tribe. Mr. Dean Suagee, First Nations Environmental Law Program, Vermont Law School, observed that the process as Mr. Rathsam described seems haphazard, noting a need for increased interaction among the agencies involved.

According to Mr. Rathsam, the responsibility and resources for the protection of tribal environmental health are distributed among a number of Federal agencies. Projects address specific problem areas rather than overall problems in a community, he said. As a broad example, Mr. Rathsam described problems related to sanitation systems and their maintenance. Development of such systems is provided under a different funding mechanism from that which funds training in the maintenance of the systems. A lack of coordination between the government agencies, therefore, can result in the development of a sanitation system that a tribe is unable to maintain properly, he pointed out. In response, Mr. Suagee commented that progress is being made in implementing the basic policy of tribal self-sufficiency.

Mr. Smith asked how IHS coordinates with other government agencies in the development of tribal solid waste and water programs. Mr. Rathsam responded that he does not address those issues. Ms. Jennifer Hill-Kelley, Environmental Quality Director, Environmental Health and Safety Program, Oneida Nation, then explained that agencies do not get involved unless a specific issue related to development falls under their respective jurisdictions. Mr. Goldtooth commented that Mr. Smith's question was important, especially with respect to the interagency memorandum of understanding, and suggested that the question be flagged for Mr. Gogal to address.

Ms. Hill-Kelley asked from what sources IHS gathers the data necessary to track environmental health in Indian country. Mr. Rathsam explained that obtaining accurate data is a special problem because many individuals among the Indian population are born and raised on the reservation, but move off the reservation in adulthood. Therefore, cradle-to-grave health data in Indian country is often skewed, he pointed out. A program called Epicenter, based in Portland, Oregon, he commented, is trying to fill the data gaps by working with hospitals to collect health data on American Indians that no longer live on reservations. Further, the data is usually three years old before IHS obtains it. IHS, therefore, is working with local communities to gather data on their own respective populations, he continued.

Ms. Daphne Moffet, Agency for Toxic Substances and Disease Registry (ATSDR), inquired about the administrative level within IHS at which Mr. Rathsam works. Mr. Rathsam responded that he works at the district level, and that his position combines general administrative responsibilities with services to community populations.

Mr. Paul Matthai, Environmental Protection Specialist, EPA Pollution Prevention Division, Office of Prevention, Pesticides, and Toxic Substances (OPPTS), discussed the authority to protect environmental health under various environmental laws. Mr. Matthai explained that each act of Congress grants specific authority to address specific matters of environmental health. For example, the Toxic Substances Control Act (TSCA) provides the authority to regulate a toxic chemical in commerce, but not in a specific product, he explained. The problem of regulatory authority is compounded further because authority in areas under tribal jurisdiction is unclear.

Mr. Matthai also discussed EPA's agency-wide PBT Chemicals Initiative. He explained that EPA is developing a new approach to reduce risks from and exposures to priority PBT chemicals through increased coordination among EPA's national and regional programs.

The PBT Initiative, Mr. Matthai continued, had been established to overcome the remaining challenges in addressing priority PBT pollutants. He then informed the members of the subcommittee that EPA is committing, through this program, to create a cross-office system that will address cross-media issues related to priority PBT pollutants. Mr. Matthai then highlighted several of the goals of the PBT Initiative:

- Prevent new PBT chemicals from entering commerce.
- Identify and reduce risks to human health and the environment from current and future exposures to priority PBT pollutants.
- Stop the transfer of PBT pollutants across environmental media.

The initiative, Mr. Matthai also explained, will provide staff of EPA to the World Health Organization for the global phase out of dichlorodiphenyltrichloroethane (DDT) and will add PBTs to the Toxic Release Inventory (TRI) data base and lower reporting thresholds.

Continuing the discussion on environmental health in Indian country, Ms. Moffet then discussed four specific environmental health concerns in Indian country from the perspective of ATSDR: (1) interpretation of authority delegated by Congress; (2) research needs and the state of environmental health; (3) programs in Alaska and Hawaii; (4) and interagency agreements between IHS and the Center for Disease Control and Prevention (CDCP). She explained that ATSDR has responded to research needs in Indian country by organizing information in a central website data base to provide a research base. Currently, there are no environmental health programs in Hawaii; for native populations, she said, and the only native health care programs in Alaska are associated with formerly used defense sites (FUDS). Finally, she said, IHS and CDCP have an interagency agreement, noting that Mr. Tom Crow, Chief Environmental Health Services Branch, IHS, is the point of contact.

Mr. Moses Squeochs, Confederated Tribes and Bands of Yakama Nation, then asked for the specific charge of authority for agencies with regard to tribes. He stated that ATSDR becomes involved in issues related to the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). However, he asked, what is the full line of authority to act on behalf of the over 560 tribes and tribal variations recognized by the Federal government. Mr. Squeochs stated that he can cite the responsibilities of all the agencies but not the full authority of any agency to fulfill such responsibilities.

Mr. Goldtooth stated that, in general, native people living in communities report high cancer rates. However, he continued, tribal people bear the burden of proof with regard to environmental health problems and the people become frustrated because they do not have the resources to gather data. Mr.

Rathsam responded that the mission of IHS is to extend life as long as possible, noting as well that there is a question of what indicators of health should be used in assessment of effects on tribal communities. Ms. Jana Walker, Law Office of Jana L. Walker, then asked whether statistics are available at the community level. Mr. Rathsam said neither names nor individual case data are available; however, statistics on communities are available, he added.

Mr. Dean Seneca, Health Program Specialist, CDCP, discussed environmental health from the perspective of the CDCP. Mr. Seneca suggested that the CDCP should empower tribal communities to facilitate the protection of environmental health. He said he would like all Federal agencies involved to identify to the public the problems they have dealing with environmental health in Indian country. Further, he would like to see tribal communities define the specific environmental health problems they wish to have addressed. He then said many people are not trained to deal with interactions between tribal communities and Federal agencies. He suggested that tribal communities and Federal agencies should hold community meetings to develop consultation practices and to work together to define research needs. Continuing, Mr. Seneca stated his belief that it is of utmost importance that tribes monitor their own environment, reforestation, and acculturation. Federal agencies, he said, should work harder to fulfill their obligations in the area of environmental health. He described Alaskan tribal programs as successful examples that should be replicated in the lower 48 states. Last, Mr. Seneca declared that all environmental health data should be shared with tribes, data collection should be executed by the tribes, and health research should be authorized by tribes before such research begins. Mr. Goldtooth expressed agreement with Mr. Seneca's view that it is beneficial when researchers work with tribes before working with Federal agencies.

Ms. Sarah James, Council of Athabascan Tribal Government, responded to a portion of Mr. Seneca's remarks by describing her experience in collecting community health data. Ms. James said that tribal people are not credited for their research. Often, she said, tribal members collect data and perform data coding for agencies, but the agencies receive credit for the research effort. Funding then is allotted to the agency credited with the research rather than the tribe that performed the research effort, she said. She added that she would like to know who reviews the work and delegates the money.

In response, Mr. Rathsam asked, "What is environmental health?" IHS attempts to be comprehensive in identification and anticipation of deficiencies in its services that could be detrimental to environmental health, he said. However, he pointed out that IHS has a limited budget, and, as a result, the available expertise is underused. He suggested that agencies concentrate on sustainability and develop a protocol for health assessment in Indian country. Mr. Squeochs commented that providing funds is a trust responsibility of the Federal government and that IHS should push the trust responsibility in its requests for funds.

Mr. Roy Miller, Program Manager, Uniformed Services University of Health Sciences, U.S. Department of Defense (DoD), discussed the environmental health policy study that IHS conducted which confirmed a desirability and opportunities for greater collaboration among Federal agencies on environmental health assistance to tribes. Mr. Miller explained that he worked with Mr. Crow to define the policy and prioritize a program to provide this assistance to tribes. He stated that environmental health is a very broad subject. In sum, he said, environmental health is anything that affects human health. Responsibility for environmental health is distributed among a number of agencies, he continued, and each agency has policy priorities in allocating resources. Focusing resources solely within an agency leaves gaps in the broad IHS program, rendering some projects unsustainable, he said. First and foremost, therefore, IHS must facilitate relationships between government agencies that will facilitate the focusing of resources on sustainable environmental health, he said.

Currently, there is no comprehensive program that covers environmental health, said Mr. Miller. He suggested that agencies adopt common standards and criteria. He also suggested that all agencies evaluate their respective policies. Policy, he said, is the sum of an agency's actions, rather than what is written on paper. Continuing, he stated that agencies must come to collaborative agreements to facilitate a comprehensive Indian environmental health program. He suggested that all the agencies come together at a summit meeting to create such a program.

In conclusion, Mr. Miller informed the members of the subcommittee of the Federal Interagency Environmental Justice Pilot 2000 Proposal. He described the proposal as a postgraduate training program for American Indians, Alaska natives, and other minorities to gain practical experience with a number of agencies. The purpose of the program is

to afford selected individuals the opportunity to learn the processes of various organizations and to facilitate relationships, said Mr. Miller. Mr. Goldtooth suggested that the project should be open to all minorities.

3.2 Presentation on Persistent Organic Pollutants and Persistent Bioaccumulative Toxins

Dr. Sterling Gologergen, POPs Organizer for Alaska, Alaska Community Action on Toxics, IEN, began discussions of the effects of POPs on Arctic and Alaska Native communities that pursue a subsistence lifestyle. Exhibit 6-2 provides a description of POPs. POPs bioaccumulate in the Arctic and Alaska, she said. The environmental

Exhibit 6-2

PERSISTENT ORGANIC POLLUTANTS

Persistent organic pollutants (POP) are highly stable chemicals used as pesticides. POPs also are generated unintentionally as byproducts of combustion and industrial processes. In addition, POPs chemicals are toxic, usually persistent, and are capable of being transported long distances through the environment, where they bioaccumulate in fatty tissue and can pose risks to humans and wildlife. Levels of these pollutants are particularly high in human and wildlife populations that reside in the Arctic.

health effects are compounded in Alaska and the Arctic because native peoples and tribes subsist upon land and sea resources that are contaminated with POPs. In particular, she said, an island off the coast of Alaska, on which Dr. Gologergen and her people live and depend for subsistence, is at risk of POP bioaccumulation resulting from contamination at a former military site. She cited the example of the whaling industry's effect on her island as a precursor to today's problem. Since the advent of the whaling industry in the vicinity of her island, the whale population has decreased from 16,000 to fewer than 1,500, she explained. In her community, she continued, the whaling season during spring time is the time of acculturation and value-learning passed from the old to the young. The loss of the whales inhibits the continued cultural practice, yet the state of Alaska shows no sympathy for their tribal interest. Similarly, it appears that the Federal government has done no research on the effects of POPs on native peoples during the 50 years the army base has been unused. Dr. Gologergen

explained that her tribe does not have the knowledge or the capacity to research the environmental health problem. Her tribe has a great fear of the invisible and odorless POPs, she said, and has been working with the Alaskan Native Tribal Leadership Organization to resolve the problem. However, after 50 years, the community should not find itself still begging for help.

Mr. Goldtooth then mentioned the unreleased Draft Dioxin Assessment Report prepared by EPA. Although most tribal leaders do not have enough information about the subject, dioxin is a major issue, said Mr. Goldtooth. He then mentioned the crucial issue of the elimination of dioxin in the negotiation of the Global Treaty Against POPs, which calls for reduction and elimination of POPs, during his introduction of Dr. Pat Costner, Senior Scientist, GreenPeace International.

Dr. Costner's presentation included an explanation of the "grasshopper effect." She explained that the "grasshopper effect" refers to the bioaccumulation of POPs toward cooler climates; when POPs are released into the environment they migrate, because of their chemical properties, to cooler climates. POPs also are poorly soluble and accumulate in the fat of human and animal tissue, she said. In a contaminated area, concentrations of POPs in the water supply can be almost undetectable, but, as one measures concentrations upward along the food web, the concentrations increase, explained Dr. Costner. For example, she said, concentrations are 25,000 times higher in birds than in water in a contaminated area. Dioxin levels are five times higher in farmyard chickens than in industrial chicken houses. Further, she said, people living at lower economic levels subsist on wildlife; therefore, they are much more likely to be affected by contamination than more well-to-do groups. The human species is at the top of the food chain, and people living in the Arctic are at the apex of the grasshopper effect, she continued.

Dr. Costner identified a short list of POPs first targeted in the negotiation of the global treaty that will eliminate the continued production of POPs. She then asked, "How do they affect us?" She explained that the incidence of POP contamination peaked in the 1970s and that breast milk contains the highest rate of contamination. Contamination suppresses development and impedes the immune and reproduction systems. A major problem in defining the effects of POPs, continued Dr. Costner, is that there are no uncontaminated populations to be used in qualifying the health effects on contaminated populations. She stated that, toxicologically speaking, there is no greater problem in the

environment than POPs. However, she pointed out, 15 countries, including the United States, are opposed to the elimination of dioxins under the global treaty currently being negotiated; the current global treaty calls for the elimination of polychlorinated biphenyls (PCB) and hexabutylchloride only. Dr. Costner stated her belief that the latest direction taken by the United States bodes a bleak fate for tribes in the Arctic. Responding, Mr. Goldtooth stated that the U.S. Department of State takes its technical lead from EPA and that ratification of the current global treaty would reflect EPA's position on the issue.

4.0 PRESENTATIONS AND REPORTS

This section summarizes the presentations made and reports submitted to the Indigenous Peoples Subcommittee.

4.1 Summary of the Videotape "The Forgotten America - Alaska's Rural Sanitation Problem"

Members of the subcommittee viewed the videotape "The Forgotten America - Alaska's Rural Sanitation Problem," which portrayed the current state of sanitary facilities in many Alaskan villages, many of which lack such facilities. Fifty percent of all villagers take water from a public source and bathe in a community bath house. The Chevak villagers collect human waste in buckets and carry the waste to an open-air public lagoon, where it is dumped. Fourteen percent of villages use a system by which a four-wheel all-terrain vehicle (ATV) hauls the waste to a public lagoon. In both systems, the waste is carried in open-air containers through the community and often spills on community grounds. The public water source is often contaminated by human waste left untreated in the waste lagoons.

The Rural Alaskan Sanitation Task Force produced a Gray Book that set forth 60 recommendations for long-term solutions to the sanitation problems. Alaskan villagers are calling for coordinated efforts from local, state, and Federal governments to improve current conditions. Currently, the state is responsible for the design of proper facilities, and communities are responsible for maintenance of those facilities. The video depicted the success story of a village that sustained its sanitation system through a one-percent sales tax and a small house fee; however, most villages cannot afford even that small cost. Communities need subsidies to maintain their sanitation systems. The cost of treating epidemics stemming from poor sanitation is more expensive than that of developing and subsidizing sanitation systems. The video concludes with the

question: Is solving the problem worth the cost of subsidies?

4.2 Presentation on the Proposed Gregory Canyon Landfill

Mr. Henry Rodriguez, President, Native American Environmental Protection Coalition, discussed the proposed Gregory Canyon Landfill to be built directly over the Pala Indian Reservation's water supply aquifer in California. Approximately 4,500 Pala Indians live on the reservation. The landfill would have a direct effect on Medicine Rock and a pictograph site used in coming-of-age ceremonies held sacred by the Pala Indians. Further, he continued, the Pala Indians fear the landfill could destroy threatened and endangered species known to inhabit the area. Mr. Rodriguez stated that EPA has a responsibility to prevent the construction of the landfill. In conclusion, Mr. Rodriguez asked for the help and intervention of the members of the subcommittee.

Mr. Goldtooth responded that he had informed the members of the Waste and Facility Siting Subcommittee of the matter and asked that he be provided updates as events unfold. Mr. Seneca asked whether the landfill would be sited on private or public land; Mr. Rodriguez responded that the site is private land. Ms. Hill-Kelley said a permit must be obtained from the U.S. Army Corps of Engineers (USACE) before construction of a landfill on private land; the project therefore would fall under Federal jurisdiction, she observed.

4.3 Public Utility Activities of the U.S. Environmental Protection Agency Region 10 in Rural Alaskan Villages

Ms. Jill Nogi, Environmental Protection Specialist, EPA Region 10, discussed drinking water and wastewater needs in Alaskan Villages. Under the 1996 amendments to the Safe Drinking Water Act (SDWA), the state of Alaska is assessing approximately 1,700 public water systems and then will provide that information to the public about contaminants that may threaten the drinking water supply, she reported. However, the state is assessing only Class A and Class B sources; Native Villages are not included, she said. Further, the provisions of SDWA are applicable only to hydrogeologic or man-made public water supplies used by more than 25 people. The program review began as a vulnerability study that revealed a large data gap and lack of consistent sources, continued Ms. Nogi. The problem is now becoming a right-to-know issue because the quality of the water is unknown. Ms. Nogi stated that she had begun

gathering data from surveys in pilot villages, including Eek in southern Alaska, Shishmaref on a barrier island, and Tanana in interior Alaska. The objective of her research, said Ms. Nogi, is to develop a statewide survey representative of all Native populations and to empower villages to make educated decisions about the development of public utilities. She added that the next phase of her research is to hold community workshops and develop educational materials.

Ms. James expressed agreement that explaining scientific messages to tribal people is difficult. She said the difficulty lies in the failure of non-tribal government workers to understand traditional tribal ways. Ideally, she added, villagers should be trained to do the research in the spirit of self-determination.

Mr. Seneca said he had visited Shishmaref; he then asked about the Agency's suggestions for remediation. Ms. Nogi replied that EPA is not yet ready to make suggestions. She added that the only solution now available is to close contaminated water sources. Mr. Seneca replied that villagers need water sources for many uses beyond drinking water. Closing contaminated water sources, he added, is a "temporary fix" from the perspective of the CDCP. He then asked for recommendations for a permanent solution. Again, Ms. Nogi responded that the EPA currently does not have recommendations. However, she said, from the perspective of EPA, the safest solution would be to build public water supplies and sanitary systems that can be monitored. She said the difficulty in making recommendations is that the research she had discussed is the first study of traditional sources of water.

4.4 Nuclear Risk Management Native Program -- Radiation Exposure of Shoshone People

Mr. Ian Zabarte, Western Shoshone National Council, Nevada, Nuclear Risk Management Native Program, discussed the programs' research on the effects of exposure to radiation on the Western Shoshone people. Mr. Zabarte first stated the 1863 treaty between the Western Shoshone and the United States has been violated by the establishment of the Nevada Nuclear Test Site. The U.S. Department of Energy (DOE) conducted a cultural resource study through which the native peoples were forced into "cultural triage," declared Zabarte. Further, he added, the data in the DOE dose reconstruction study are incomplete. Mr. Zabarte stated only limited historical data was available, the data were insufficient, estimated doses for Native Americans were inaccurate and low, and the study limited models of lifestyles and pathways.

Exhibit 6-3 identifies the limitations of the DOE study. Tribal members had taken researchers hunting to show them how they used animals for both subsistence and for cultural artifacts that were not considered. Researchers appeared culturally insensitive by considering people to be subjects of the study, failing to ask permission, and failing to communicate openly, he charged. He added that IHS had been informed that no off-site releases had taken place. Mr. Zabarte stated that he would like EPA to approach the Western Shoshone National Council to provide guidance in dealing with nuclear fallout and to empower and train tribal members in research methods.

Exhibit 6-3

U.S. DEPARTMENT OF ENERGY NUCLEAR FALLOUT STUDY DATA GAPS

Limited Historical Data

- Only 111 of the 220 U.S. atmospheric tests from 1951 through 1963 were monitored off-site.
- Complete monitoring data were recorded for only 77 of the events.
- Complete fallout patterns and data time travel of fallout were recorded for only 55.
- Research on underground tests that leaked radiation into the atmosphere was not completed.

Insufficient Data

- Direct measurements did not monitor all areas adequately.
- Estimates were made to compensate for limited data.
- Estimated doses are comparable only from town to town.

Limited Models of Lifestyle and Pathway

- The Native American lifestyle was not identified as it exists.
- A “shepherd lifestyle” was used in place of the traditional lifestyle.

Mr. Goldtooth asked how many research staff were working with Mr. Zabarte. Mr. Zabarte responded that four staff members were involved: two Western Shoshone and two Western Piaute. Mr. Running Grass, Environmental Protection Specialist, EPA Region 9, asked what type of assistance Mr. Zabarte needs from EPA. Mr. Zabarte asked that a line of

communication be established between EPA and the Western Shoshone Nation. The two organizations, he stated, must define the group affected and define why there is conflict between his culture and the purposes and operations of the facility. Further, EPA should communicate with the appropriate authorities to help the Western Shoshone Nation.

4.5 Effects of Navy Bombing Range on the Wampanoag Tribe, Nomans Island, Massachusetts

Ms. Beverly Wright, Chairperson, Wampanoag Tribe of Gay Head Aquinnah, and Mr. Jeff Day, Ranger, Natural Resources, Wampanoag Tribe of Gay Head Aquinnah, discussed the effects on the Wampanoag Tribe of test bombing by the U.S. Department of Navy (Navy) at Nomans Island, located in Weymouth, Massachusetts. Ms. Wright described the cultural background of the Tribe of Gay Head Aquinnah and explained that the tribe manages a 500-acre Federally recognized reservation near Nomans Island. In particular, she described her people as a fishing tribe who maintain a natural strand of cranberries integral to their culture. In conclusion, she stated that her cultural heritage is tied to Nomans Island.

Mr. Day then explained that the Navy had bombed Nomans Island during the years from the early 1940s through 1996. He then explained that the town of Aquinnah has a cancer rate that is 93 percent higher than rates in the rest of the state. He identified an inadequate environmental assessment as a major factor causing the health problem because shellfish had not been tested for residual contamination levels. Continuing, Mr. Day explained that the prevailing winds blow directly across the island to Aquinnah. Further, he pointed to an inadequate surface clean up of unexploded ordnance (UXO) left on the island as another major factor causing the environmental health problem. Mr. Day said that Federal authorities will not clean the area because the island is a habitat of threatened and endangered species. Finally, Mr. Day claimed the burden is on the tribe to prove that the island is contaminated.

Mr. Goldtooth asked Mr. Day whether any evidence existed that the Navy had used depleted uranium (DU). Mr. Day responded that such evidence does exist, but the Navy has denied using DU. Mr. Goldtooth then said that remediation of DU is still the subject of research; however, he said, there is a network that maintains health data. Mr. Goldtooth then said he would contact Mr. Willie Taylor, U.S. Department of the Interior (DOI), to discuss the matter. Mr. Day then asked that the members of the

subcommittee support the resolution the tribe would submit to the NEJAC. Exhibit 6-4 provides highlights of the tribe's resolution. Mr. Goldtooth asked that copies of the resolution be shared and discussed with members of the other subcommittees.

Exhibit 6-4

HIGHLIGHTS OF THE WAMPANOAG TRIBE RESOLUTION

The following lists of major requests by the Wampanoag Tribe of Gay Head Aquinnah:

- Center for Disease Control and Prevention-supported cancer study.
- Study of fish contamination and consumption.
- Nomination of the site under the Comprehensive, Environmental Response, Compensation, and Liability Act.
- Enforcement of the Clean Water and Clean Air acts.
- Protection of historical and cultural resources.
- Public involvement.

5.0 RECOMMENDATIONS ON ENVIRONMENTAL RESEARCH NEEDS IN INDIAN COUNTRY

The NEJAC, in its continuing efforts to provide independent advice to the EPA Administrator on areas related to environmental justice, focused its fifteenth meeting on a specific policy issue – community-based environmental health. For that effort, members of the Indigenous Peoples Subcommittee discussed at length recommendations to EPA on identifying environmental health research needs in Indian country. The following list outlines the recommendations.

Environmental Health Research Needs for Infrastructure

- Deficiencies are due primarily to the inadequacies of funding and technical expertise to design, develop, and implement environmental health research programs for Indian country and, therefore, the Federal government should fund and meet these needs fully.

- These issues need to be addressed in a proposed Indian Work Group Roundtable on Environmental Justice in Indian Country.
- There needs to be a financing mechanism to fund the infrastructure of the environmental health research project.
- Support innovative and sustainable technologies within Indian country (such as, waterless toilets, solar energy systems, and constructed wetlands).
- Need to ensure through funding and technical assistance the appropriate design and operation of sanitation facilities.

Environmental Health Research and Data Related to Indian Country

- Involve the tribal community in designing, planning, and implementing culturally appropriate environmental health research.
- Ensure that research data is reported back to the tribal community promptly and in a manner understandable to the tribal community.
- Incorporate training into each environmental health research project so that, upon completion, trained personnel will remain in the tribal community to continue long term efforts related to promoting and monitoring the environmental health of the community members.
- Preserve confidentiality of the individuals who contributed to the data, protect the data from Freedom of Information Act (FOIA) requests to the greatest extent permitted under Federal law, and ensure that the tribal community understands that some data may be made public.
- Identify the benefit of the research to the tribe before, during, and after the completion of the environmental health research.
- Ensure that researchers obtain all approvals from the tribe, or its delegated review board, before conducting research.
- Conduct an assessment to address and evaluate the lack of baseline environmental health data.
- IHS annual data on health status needs to be made available to each tribe.

- IHS needs to retain and store data by each tribe.

Interagency Collaboration and Coordination

- Ensure agency services by IHS; Bureau of Indian Affairs (BIA); DOI; and EPA are provided equally and consistently to tribes.
- Federal agencies need to be more proactive in helping tribes identify resources (financial and technical) within all Federal agencies to address their concern or need.
- In consultation with tribes, develop an integrated Federal interagency, comprehensive, funded program on environmental health that will address fully the environmental justice needs in Indian country.

Training and Education on Environmental Health

- Ensure that EPA staff and management have a thorough understanding of the unique governmental structures of the Alaska Native Tribes, especially those who are working on Alaska Native issues.
- Mitigate the effects of human exposures to POPs and PBTs .

6.0 RESOLUTION AND SIGNIFICANT ACTION ITEMS

This section summarizes the resolution forwarded to the Executive Council of the NEJAC for consideration and the significant action items adopted by the Indigenous Peoples Subcommittee.

The members discussed a resolution in which the NEJAC recommends to the EPA Administrator that EPA address environmental justice issues related to POPs in Indian country.

The members of the subcommittee also adopted the following action items.

- ✓ Agreed to coordinate with the Waste and Facility Siting Subcommittee efforts to respond to the request of Mr. Rodriguez for intervention by the NEJAC to prevent the construction of the proposed Gregory Canyon Landfill.
- ✓ Agreed to develop a resolution addressing the concerns of the Wampanoag Tribe of Gay Head Aquinnah related to remediation of contamination at Norman's Island, Massachusetts.
- ✓ Submitted for the review and comment of all members of the NEJAC a "revised draft" of the Indigenous Peoples Subcommittee's guide on consultation and public participation; comments are due August 15. A final draft is to be submitted to the Executive Council for approval before the December 2000 meeting of the NEJAC.
- ✓ Coordinate with the members of the International Subcommittee arrangements to convene a round table meeting to discuss tribal issues along the borders of the United States with both Mexico and Canada.
- ✓ Submitted a letter to the Director of EPA OEJ articulating the necessity that a NEJAC meeting be held in Alaska to address the wide range of environmental justice issues that confront Alaskan Natives.
- ✓ Agreed to jointly sponsor with the Air and Water Subcommittee a work group to study fish contamination and consumption.
- ✓ Support the plans of IHS to hold an environmental health conference and strongly recommend the participation of all Federal agencies.
- ✓ Support the plan of the Interagency Working Group on Environmental Justice to hold a roundtable meeting to address concerns related to environmental justice in Indian country and among Alaskan Native Tribes.

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MEETING SUMMARY

of the

INTERNATIONAL SUBCOMMITTEE

of the

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

May 25, 2000
ATLANTA, GEORGIA

Meeting Summary Accepted By:



Wendy Graham
Office of International Activities
U.S. Environmental Protection Agency
Designated Federal Official

Arnoldo Garcia
Chair

**CHAPTER SEVEN
MEETING OF THE
INTERNATIONAL SUBCOMMITTEE**

1.0 INTRODUCTION

The International Subcommittee of the National Environmental Justice Advisory Council (NEJAC) conducted a one-day meeting on Thursday, May 25, 2000 during a four-day meeting of the NEJAC in Atlanta, Georgia. Mr. Arnoldo Garcia, Development Director, Urban Habitat Program, continues to serve as chair of the subcommittee. Ms. Wendy Graham, Office of International Activities (OIA), U.S. Environmental Protection Agency (EPA), continues to serve as the Designated Federal Official (DFO) for the subcommittee. Exhibit 7-1 presents a list of the members who attended the meeting and identifies those members who were unable to attend.

This chapter, which provides a summary of the deliberations of the International Subcommittee, is organized in six sections, including this *Introduction*. Section 2.0, *Remarks*, summarizes the opening remarks of the chair. Section 3.0, *Activities of the Subcommittee*, summarizes the discussions about the activities of the subcommittee, including updates on the accomplishments of the subcommittee and the subcommittee's South Africa Work Group. Section 4.0, *Presentations and Reports*, presents an overview of each presentation and report, as well as a summary of relevant questions and comments from the subcommittee. Section 5.0, *Dialogue with the South African Delegation*, summarizes the discussions between the members of the subcommittee and the delegates from South Africa. Section 6.0, *Significant Action Items*, summarizes the action items adopted by the members of the subcommittee.

2.0 REMARKS

Mr. Garcia opened the subcommittee meeting by welcoming the members present and Ms. Graham. He then asked the participants to introduce themselves and identify their organizations. Mr. Garcia then commented that, while he realized people might be interested in attending other subcommittee sessions, participants should remain at the present meeting as long as possible. With a full list of issues on the agenda, he said, he believed that the meeting of the International Subcommittee would be productive and informative.

Exhibit 7-1

INTERNATIONAL SUBCOMMITTEE

Members

**Who Attended the Meeting
May 25, 2000**

**Mr. Arnoldo Garcia, Chair
Ms. Wendy Graham, DFO**

Ms. Maria del Carmen Libran
Mr. Fernando Cuevas
Ms. Beth Hailstock
Mr. Alberto Salamando
Mr. Tseming Yang

Members

Who Did Not Attend

Mr. Albert P. Adams
Mr. Robert Homes
Ms. Caroline Hotaling

3.0 ACTIVITIES OF THE SUBCOMMITTEE

This section provides an update on followup activities of the subcommittee related to the Roundtable on Environmental Justice on the U.S.-Mexico Border and a report from the subcommittee's South Africa Work Group.

3.1 Updates on the Roundtable on Environmental Justice on the U.S.-Mexico Border

Mr. Garcia opened the discussion by explaining that members of the International Subcommittee continue to work with EPA to develop strategies for the implementation of and followup on, many of the recommendations made to EPA by stakeholders and constituent participants at the Roundtable on Environmental Justice on the U.S.-Mexico Border, sponsored by EPA and the International Subcommittee of the NEJAC, held in August 1999, in National City, California. He also explained that a report on the roundtable meeting should be available later this year. He stated that many questions remain unanswered. He announced that he planned to have a conference call with Mr. Charles Lee, Associate Director for Policy and Interagency

Liaison, Office of Environmental Justice (OEJ), EPA Office of Enforcement and Compliance Assurance (OECA), to discuss the formation of a border commission.

Mr. Garcia stated that the subcommittee categorized the recommendations into short-, medium-, and long-term goals and that EPA had responded to more than 40 of the 100 recommendations within 30 days after the roundtable meeting and continues to work on the more complex recommendations, several of which involve negotiations with the government of Mexico. Subcommittee members and environmental justice representatives have worked closely with EPA, he continued, invoking the concerns of the environmental justice community and offering comments in the early developmental stages of new work plans, projects, and policies that address recommendations set forth during the roundtable meeting.

Mr. Alan Hecht, Principal Deputy Assistant Administrator, EPA OIA, then commented that December 2000 through July 2001 will be a learning period for the new administration and that, by July 2001, EPA will meet with the Agency's new Mexican counterparts for a meeting to discuss the new border plan. The new border plan, he continued, might be available in 2002. Mr. Hecht said that one of the challenges will be how to generate interest in various work groups and how to support citizen participation at all levels.

Mr. Garcia added that the effort faces two challenges: (1) to address existing grievances and (2) to become involved in available networks. Mr. Hecht responded that the task has two parts: (1) the legacy issue of neglect and (2) the doubling of the population over time. Therefore, it is difficult, he said, to determine what the circumstances will be in the future. The new border plan, he continued, should have two parts: (1) the legacy plan and (2) the plan for the future. Communities still want representation in the same way, so the emphasis on the need for general engagement should be retained, Mr. Hecht added. In addition, he urged the members of the subcommittee to encourage communities to help EPA develop a vision of what the community wants. Political support for addressing the border issues is weak, he observed. He encouraged the members of the International Subcommittee to promote more interaction across the border. Mr. Hecht also commented that a number of companies in the private sector are interested in becoming involved in the effort.

3.2 Update on the South Africa Work Group

The report on South Africa submitted by Dr. Mildred McClain, Executive Director, Citizens for Environmental Justice and former member of the International Subcommittee of the NEJAC, in August 1998 had been adopted as the work plan of the South Africa Work Group (SAWG) of the International Subcommittee. Currently, EPA is implementing the recommendation of the SAWG that an effort be made to "link environmental justice groups in the U.S. with South Africa groups who are addressing similar issues," she said.

In May 2000, Dr. McClain announced that EPA hosted delegates representing the South African environmental justice community at an intensive program in the southeastern United States. She explained that the delegates spent approximately 10 days visiting communities that face environmental justice challenges similar to those encountered by communities in South Africa. Representatives of environmental justice communities, including delegates from the SAWG, spent countless hours working with EPA to prepare for the visit, she noted. A one-day "lessons learned" session covered the experiences of communities in the United States, discussions of goals that remain to be achieved, and a review of the history of the NEJAC, Dr. McClain continued. In addition, Dr. McClain stated that the delegates would be participating in this meeting of the NEJAC, meeting experts and activists from around the country. The delegates from South Africa also participated in the meeting of the International Subcommittee on May 25, 2000. Section 5.0 provides a summary of the dialogue between the members of the subcommittee and the delegates from South Africa.

Dr. McClain then asked the members of the International Subcommittee and South Africa Work Group to consider whether the subcommittee's South Africa Work Group, whose mandate ends in September 2000, should continue to focus on South Africa or should broaden its focus to all of Africa.

4.0 PRESENTATIONS AND REPORTS

This section summarizes the presentations made and reports submitted to the International Subcommittee. The International Subcommittee heard presentations and reports on the following topics: improving the health of farm workers; the success story of Barrio Logan, San Diego, California; Lake Apopka, Florida and farm worker health; initiatives undertaken by the EPA Office of Prevention, Pesticides, and Toxic Substances (OPPTS); an update on activities of the EPA San Diego Border Liaison Office; a report by EPA Region

10 on the effects of farm worker protection standards; the work of EPA OIA.

4.1 Presentations on Public Health and Exposure to Pesticides

The NEJAC, in its continuing efforts to provide independent advice to the EPA Administrator on areas related to environmental justice, focused its fifteenth meeting on a specific policy – public health and environmental justice. For that effort, members of the International Subcommittee discussed at length various public health issues related to farm workers and their exposure to pesticides. This section focuses on how to improve the health of farm workers related to the exposure of pesticides.

4.1.1 Improving the Health of Farm Workers: First Hand Accounts of Life as a Migrant Farm Worker

Mr. Fernando Cuevas, Vice President, Farm Labor Organizing Committee, began the discussion of improving the health of farm workers by sharing his life experiences as a farm worker. Mr. Cuevas stressed that it was not until he was 36 years old that he learned what pesticides were, emphasizing the lack of training provided to farm workers, as well as their lack of awareness of the problems associated with pesticides. Mr. Cuevas stated that there are three types of farm workers: (1) farm workers who live and work in one place; (2) farm workers who have a home base, but work in various areas of a state, according to the season; and (3) migrant farm workers who live and work all over the United States, and who move constantly. Mr. Cuevas noted that he had been one of the third type of farm worker, a migrant farm worker.

In addition to the exposure to pesticides that all farm workers experience, continued Mr. Cuevas, migrant farm workers are exposed to the dangers of traveling around the country to seek work. Children, he added, often are taken out of school so their parents can travel to pursue seasonal employment.

Mr. Cuevas then described the birth of one of his daughters. He and his wife had gone to a hospital, he said, where the delivery-room doctor lectured his wife and interrogated her, accusing her of taking illegal drugs, drinking alcohol, and harming her own baby during the pregnancy. Mr. Cuevas then explained that their daughter had been born with severe birth defects and learning disabilities. Like many farm worker families, they blamed themselves for their daughter's problems, without realizing that the deformities had been caused by exposure to pesticides. It was not until a few weeks later, he

continued, that another doctor, who was trained to recognize the signs and effects of exposure to pesticides informed them of the true cause. Unfortunately, health care officials are not trained to recognize the symptoms or effects of exposure to pesticides, Mr. Cuevas stated. Many farm workers who have such ailments are not diagnosed or treated properly, nor are they given the correct explanation of their ailments, he said.

Mr. Cuevas also noted that, complicating the problem of inadequate diagnoses of exposure to pesticides, farm workers cannot afford to take time off when they are sick. Time off means no pay, he pointed out, recalling a time when he was in so much pain that he could not move. He had seen a chiropractor for the pain, he said. The chiropractor found nothing wrong and charged him a high fee for the visit, he continued. Within a few days, Mr. Cuevas said, he had begun to feel better, leading him to believe that his body had processed whatever chemicals to which he had been exposed. His own story, he said, demonstrates that doctors often find nothing wrong, and that farm workers often cannot afford visits to a doctor or medication that might be prescribed, as well as days off work without pay. Therefore, they must often live with the pain and accept it as normal, he explained.

In addition to the lack of training of health-care providers, Mr. Cuevas continued, EPA standards for verification of training are inadequate. Often, he pointed out, videotapes on chemical safety training are not available in the appropriate languages. He explained further that time is not taken with people who lack education and often cannot read and write to explain the severity of the situation. He stated the fear that agencies might be "complying" with regulations only to receive funding allocations, rather than actually effectively communicating the message and adequately warning people of the dangers of exposure to pesticides. Mr. Cuevas then told the subcommittee he had traveled with Mr. Kevin Keaney, Acting Chief, Certification and Worker Protection Branch, EPA OPPTS, to migrant farm worker camps to interview the farm workers. Not one, Mr. Cuevas declared, and Mr. Keaney agreed, had received training from an employer.

All of the circumstances he had described, Mr. Cuevas continued, contribute to discrimination against and ill-treatment of farm workers, who, he noted, are primarily Hispanic or other minorities. The living and working conditions and exposure to pesticides that farm workers are subjected, Mr. Cuevas continued, "are horrible and are still horrible even in the year 2000." Even though there are child labor laws intended to prevent children from working

in the fields, he added, there still are young children working in the fields. Because many families cannot afford to pay for sitters or do not have a place to leave their children while they are working, he explained, many children are brought to the fields and left in a car near locations at which pesticides are sprayed. Mr. Cuevas stressed the importance of adequate training for farm workers and health-care providers and of laws that are enforced adequately to support the effort to reduce the exposure of farm workers to harmful contaminants.

Ms. Maria Elena Lucas Rochel, farm worker and organizer, Arlington, Texas, also began her presentation with a first-hand account of the hardships of life as a migrant farm worker with two children. She spoke of the intense discrimination and prejudicial attitudes that she faced, thinking the situation was normal because she did not know differently. Ms. Lucas began life as a migrant farm worker, was married at 15, and took her children to the fields to work. At that time, she said, she did not know there was a world beyond the fields, nor did she know about the dangers posed by pesticides.

Ms. Lucas explained that farm workers were exposed constantly to the spraying of pesticides and that, when the fields were closed for a 48-hour, no-entry period so that pesticides could be applied to them, the farm workers would go home to their camp located in the fields. She also described drinking water out of the hose used to spray pesticides, explaining that fresh water would be run through the hose before it was used to supply drinking water. People then would drink from the hose. No one knew or thought about the dangers of exposure to pesticides, she noted.

Ms. Lucas then described a freak accident during which she and her son were sprayed with chemicals. At that time, Ms. Lucas explained, she knew that pesticides were dangerous because she had heard Mr. Cesar Chavez, leader, United Farm Workers, speak at a Farm Labor Organization meeting and had become involved in working with a farm worker organization. She and her son, she said, were in the middle of a field being sprayed by chemicals; their throats were burning and they were choking and vomiting, she continued. She said she knew that, unless they could get to a hospital they both would die. Miraculously, she continued, they were able to trudge out of the field and to a hospital, both on the verge of death. Ms. Lucas ended her presentation by introducing her book, *Forged Under the Sun/Florida bajo el sol - The Life of Maria Elena Lucas*.

4.1.2 Barrio Logan Successful in Closing Methyl Bromide Facility

Mr. Cesar Luna, Policy Associate, Border Environmental Justice Campaign, Environmental Health Coalition, described the success of the Barrio Logan community in San Diego, California in shutting down a methyl bromide facility at the Port of San Diego. He explained that the facility had been established as a business venture. Exhibit 7-2 describes methyl bromide. Fruit, primarily grapes imported from Chile, was fumigated with methyl bromide at the facility. He attributed the success in shutting down the facility to the empowerment of the community, stressing the necessity that members of such communities stop seeing themselves as victims, and rather come to think of themselves as powerful agents of change. Aside from the years spent working to shut down the cold storage facility in Barrio Logan and to convince the authorities that the action was one to take, Mr. Luna commented, he believed that the success story of Barrio Logan was a good example of the power communities have. He explained that the process begins with people educating themselves, learning to understand and employ their capabilities, and then informing and educating the government.

Mr. Luna then explained the various stages of the process the community had engaged in, saying that, at first, members of the community had been told that there was no alternative to the use of methyl bromide. Mr. Luna questioned the claim that alternative technologies are available and encouraged the members of the International Subcommittee to use technology to their advantage in finding environmentally safe alternatives and fighting to ban harmful chemicals. Mr. Luna then stated the need for a standard and enforced protocol for chemicals. He attributed much of the success of the Barrio Logan community to the hard work of Mr. Jose Bravo, Southwest Network for Environmental and Economic Justice and former member of the International Subcommittee, who had, Mr. Luna pointed out, played a major role in the process.

Continuing the presentation, Mr. Bravo commented that the government ultimately had not been of help and that the actual reason the facility was closed was that it was losing money. He added that he had testified before Congress against the facility. Subsequently, he continued, he had learned that companies had stockpiled methyl bromide at the port near the Barrio Logan community and that recycling of the compound is not available. Mr. Bravo asserted that groups in Australia have a technology for recycling methyl bromide, adding that a solution to the problem will be found if the government

Exhibit 7-2

METHYL BROMIDE

Methyl bromide is a colorless, odorless gas used in agri-food industries throughout the world to control insects, nematodes, weeds, diseases, pathogens, and rodents. Methyl bromide is used to fumigate such structures as grain storage facilities, flour mills, and ships and trains that carry agricultural commodities. It also is used to fumigate soil in greenhouses and farm fields and to treat such commodities as fruits, vegetables, grains, nuts, wood, and wood products.

Once noted as an effective pesticide used throughout the world, methyl bromide today is categorized as a significant threat to the ozone layer. It is estimated that, once bromine reaches the stratosphere, it is some 50 times more efficient than chlorine, on a per atom basis, in destroying stratospheric ozone. Emissions of methyl bromide from human activities are estimated to account for as much as 10 percent of observed global ozone losses.

Under the authority of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) has prohibited the production and import of methyl bromide after January 1, 2001. In addition, in 1994, EPA froze U.S. production at 1991 levels. To facilitate the smoothest possible transition to alternatives, EPA has allowed the longest possible time before the phase-out. The phase-out applies to production and import of the chemical, not use. Use of pesticides is governed by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

There is no single alternative suitable for all the uses of methyl bromide, however, numerous chemical and nonchemical pesticides are available that effectively control many of the pests for which methyl bromide is used. Each of those alternatives has drawbacks: some alternatives require changes in production systems; others can control only some of the pests methyl bromide is effective on. Since no single technology is available to replace methyl bromide, an integrated pest management (IPM) approach, which involves the combination of a number of preventive techniques and alternative control mechanisms, is likely to be used.

provides funds to support research on alternatives to methyl bromide. Mr. Bravo also exposed the myth that the facility had brought jobs to the area, saying that of the 1,700 homes surveyed, no resident worked at the facility. Members of the community were not living there because of jobs created by the facility, nor were they gaining from the facility in any way, he declared.

Mr. Luna then voiced a plea for an immediate ban on methyl bromide. A participant in the meeting commented that it was her understanding that the phase-out date for methyl bromide had been delayed to 2015. People cannot wait, Mr. Luna observed, and the human element must be recognized because, while legislation is delayed, communities are harmed. He stated in clarification that he was not opposed to responsible industry and that he believes that community groups often become labeled "anti-everything." That is not the case, he asserted. He added that he wished to work with government and was asking industry to be responsible and accountable.

4.1.3 Lake Apopka and Farm Worker Health

Ms. Jeannie Economos, Farm Worker Association of Florida, began her presentation on Lake Apopka, Florida by providing the members of the International Subcommittee with background information. Before 1940, Lake Apopka was Florida's second largest lake, she said. In the 1940s, she reported, 20,000 acres were diked and drained to be used as farmland, primarily for the production of corn, carrots, radishes, and lettuce. Fertilizers and pesticides were applied, and lake water was used for irrigation for the farmland, she continued. By 1998, the state legislature had passed a law under which farm operations were to be bought out and Lake Apopka cleaned up. Under that program, \$113 million government dollars were spent to buy farmland that had been given to farmers in 1940, she declared. At the time of the buyout, more than 2,000 farm workers lost their jobs.

The area was to be flooded so that the land would be restored to wetlands. The area near Walt Disney World, Orlando, Florida, then would be clean, and expensive homes could be built around the lake, said Ms. Economos. However, she said, in the winter of 1998 and through early 1999, more than 1,000 water birds were found dead in the lake. Experts from the U.S. Fish and Wildlife Service (FWS), Department of the Interior (DOI), and EPA were called in to find the cause of the kill. Laboratory analysis of bird tissue revealed high concentrations of pesticides, she continued, including breakdown products of dichloro-diphenyl-trichloroethane (DDT), aldrin, and organochlorines. All the pesticides detected, she added, had been banned, some for more than 20 or 30 years.

In addition to the pesticide contamination, Ms. Economos continued, approximately 20,000 tons of soil contaminated with petroleum, pesticides, and heavy metals were removed during the cleanup conducted before the flooding of the farmlands. She

explained that two Superfund sites identified in the 1980s, both partially remediated and under continuing monitoring plans, are located adjacent to the lake.

Ms. Economos expressed her dismay about the lack of publicity Lake Apopka has received, commenting that many people in Florida still are unaware of the seriousness of the situation. She pointed out that pesticides are endocrine-disruptive chemicals, the effects of which generally are seen in the offspring of exposed individuals. Therefore, she said, it is possible that people and media do not notice those effects and focus instead on the risk of cancer or the threat of immediate death.

Ms. Economos then stated that the principal issue overlooked in the story of events at Lake Apopka, is the 2,000 farm workers. No one, aside from farm worker associations, has thought about those people, she said. The government has spent money testing alligators and deformed alligator offsprings, birds, and fish, but not humans, Ms. Economos declared. Farm workers supplement their diets by eating fish, she explained, noting that, after a study on fish, an advisory was released. Ms. Economos reported the message of that advisory as, "It is okay to eat fish, just do not eat too much fish." She added that no studies of the farm workers have been conducted to assess the multiple exposures to which they are subject. Ms. Economos concluded her presentation with a plea for studies on farm worker health.

4.1.4 Initiatives of the U.S. Environmental Protection Agency Office of Prevention, Pesticides, and Toxic Substances

Mr. Keaney began a discussion of the initiatives undertaken by OPPTS, noting that regulations provide Federal guidance on the application of pesticides and stating his agreement that the health-care community is ill-prepared to deal with pesticides. He also expressed agreement with the presenters who had preceded him that there is a need to increase awareness of the dangers of pesticides. One way to address the lack of trained health-care providers, he suggested, might be to include pesticides in teaching modules used in medical schools. He also stated that his office distributes to emergency recovery centers the guidelines, *Recognition and Management of Pesticide Poisonings* in both English and Spanish. Currently, the implementation plan for providing national strategies to train health care providers on pesticides was in the final stages of preparation, he said. He then expressed hope that, by 2001, a

national forum will be held to begin implementation of the plan.

Using slides to outline his points, Mr. Keaney then discussed EPA's Agricultural Worker Protection Program. While he agreed with some members of the International Subcommittee, who questioned the adequacy of the training material, he explained, it is important that the members be aware that EPA felt the need to provide materials as a "stop-gap" measure. Although the material is not flawless, he continued, it was necessary to produce a document in a timely manner. He also pointed out that, while regulations are in place, he questioned the effectiveness of enforcement efforts. A quick audit of the program, he added, had found lapses. He asked the members of the International Subcommittee to consider what they would like to see in the next training program and share their suggestions with him.

Mr. Keaney stated that EPA's goals include:

- Conduct a national assessment of protection of agricultural workers to be based on the model developed by the Certification and Training Assessment Group (CTAG), which was established in 1996 by EPA and the U.S. Department of Agriculture (USDA).
- Review the process used to calculate restricted time entry intervals after application of pesticides, including people 10 years of age and older.
- Revise the process for calculating risk to bystanders that was to be released for public comment.
- Increase in the number of projects that focus on medical services to children of farm workers and exposure to pesticides.

Mr. Keaney stressed the importance of ensuring that regulations adequately protect young workers and children, even though, children should not be in the field. In reality, children are there, he said, and therefore the regulations should protect them.

One of the difficulties in achieving those goals, Mr. Keaney explained, is constructing an accurate picture of the agricultural worker. The National Agricultural Workers Survey, he continued, has completed more than 20,000 interviews in which a U.S. Department of Labor (DOL) survey was used. The survey was conducted with partial funding from EPA and the National Institute for Occupational Safety and Health (NIOSH), he added. Another study, an examination of health and nutrition, is

being conducted in collaboration with the National Center for Health Statistics and the National Center for Environmental Health, with the goal of evaluating risk factors associated with elevated levels of pesticide metabolites in urine, he said. In addition, as a joint effort, of the National Cancer Institute (NCI), the National Institute for Environmental Health Sciences (NIEHS), and EPA are conducting an evaluation of pesticide applicators for environmental and occupational risk factors, he noted. Rutgers University is involved in a pilot project in an agricultural area of New Jersey that involves a survey of farm workers and their families, he said. The effort includes completion of a questionnaire, a physical exam, and environmental sampling and biological testing (for example, pesticide metabolites in urine and cholinesterase blood levels), Mr. Keaney continued.

The National Pesticides Telecommunications Network, which can be contacted by telephone toll free at (800) 858-7378, 9:30 a.m. to 7:30 p.m. eastern time and by e-mail at nptn@ace.orst.edu, Mr. Keaney stated, is a bilingual (English and Spanish) service that provides information on pesticides and how to recognize and manage pesticide poisons and that will transfer calls to the Poison Control Center or to an expert physician for consultation, if necessary. Last, Mr. Keaney briefly described the office's initiative on medical outreach to tribal health-care providers which includes: (1) tailoring of training on pesticides to health-care providers who serve tribal communities, (2) survey work at potential pesticide exposure sites, and (3) adaptation of training of health-care providers to incorporate real-life situations.

4.1.5 Presentation on Worker Protection Standard, Compliance and Enforcement Study

Ms. Monica Kirk, Special Counsel to the Regional Administrator, Office of Oregon Operations, EPA Region 10, presented the results of a survey conducted in Oregon to determine the effectiveness of the Worker Protection Standards (WPS) and to determine if the problem was a compliance issue or an enforcement issue. Exhibit 7-3 defines WPS. The results of the study suggested that enforcement was lacking, she continued, and that children had been working in the fields at young ages. Only 17 percent of the workers surveyed only were literate in Spanish, and many signs posted were in English. Only 50 percent of the workers knew what pesticides are, and public transportation and emergency services generally were not available to them, she stated. The WPS is in place, but is not as effective as it should be, she continued. Enforcement is

lacking and there is a lack of proper training, adequate safety equipment, and more, she said in conclusion.

Exhibit 7-3

WORKER PROTECTION STANDARDS

The U.S. Environmental Protection Agency's (EPA) Worker Protection Standard (WPS) is a regulation intended to reduce the risk of pesticide poisonings and injuries among agricultural workers and pesticide handlers. The WPS offers protection to more than three and a half million people who work with pesticides at more than 560,000 workplaces. The WPS includes requirements for pesticide safety training, notification of pesticide applications, use of personal protective equipment, restricted entry intervals following pesticide application, the availability of decontamination supplies, and provision of emergency medical assistance.

4.2 Update on Activities of the U.S. Environmental Protection Agency San Diego Border Liaison Office

Dr. Clarice Gaylord, Special Assistant to the Regional Administrator, San Diego Border Liaison Office, EPA Region 9, reported on the activities and progress of the education and outreach program conducted by the border office. She began noting that the NEJAC had criticized the office for failing to establish relationships with farm worker communities. Therefore, she said, the San Diego Border Office had made doing so a priority. The office's accomplishments in that area, she continued, include an increase in technical training that is focused on child safety. Specifically, she said, a grant had been awarded to a local nongovernment organization to provide such training. Dr. Gaylord also cited an increase in the number of public meetings held in the U.S.-Mexico border area of Region 9. The San Diego Border Office also had awarded a grant to the Border Health Foundation to improve the quality of drinking water by teaching residents of border communities how to disinfect their own water, she said. In addition, Dr. Gaylord continued, the American Lung Association conducted open-air waste training in San Diego and Imperial counties and the San Diego Border Office is helping in the effort to identify and contract a nongovernment organization in Mexico to conduct the same training in the border area in that country.

Later in the meeting, Dr. Gaylord discussed some of the cross-border meetings that the San Diego Border Office had hosted and some activities that had been conducted as a result of those meetings:

- The office was interacting closely with staff of other Federal agencies, and had formed a Border Subcommittee, and was collecting geographic information system (GIS) data along the border.
- The office currently was soliciting public comments on the Border XXI program, an innovative, binational program designed to promote sustainable development in the border region, to be used to improve that program.
- The office was conducting environmental justice training for other Federal agencies.
- The office's Border Team and an Environmental Justice Team have developed an Environmental Justice Border Plan through a series of public dialogue sessions; the plan addresses issues on both sides of the border.

Continuing, Dr. Gaylord stated that the San Diego Border Office was to conduct three more public meetings in Arizona to try to extend outreach activities along the border. Technical activities, she said, would be expanded through binational grants to support environmental justice work. In general, the San Diego Border Office continues the effort to heighten environmental awareness by working closely with community groups, tribal groups, and Mexican groups to improve public health, Dr. Gaylord said.

4.3 Update on the Activities of the U.S. Environmental Protection Agency Office of International Activities

Mr. Hecht began his presentation by acknowledging that the current period was a crucial point for the Border XXI program. The two upcoming presidential elections in the United States and Mexico will bring new leadership and new "players," he pointed out. Mr. Hecht stated that the goal is to begin by laying the foundation for the next border plan. EPA currently is finishing a summary document on the border projects, Mr. Hecht added as he distributed copies of the executive summary of the document to the members of the International Subcommittee. The document will provide a history of the past five years of intense bilateral cooperation under the Border XXI program, he said. The document, he continued, is intended to illustrate what has been accomplished and highlight the progress made to aid

discussion groups in determining the future organization of Border XXI. Mr. Hecht added that, on the basis of past discussions, he believed the key issues for the new border plan (until the year 2020) would be:

- Water, including water and wastewater infrastructure and water use and quality.
- Industrial stewardship and the role of the private sector.
- Health and pesticides safety.
- Management of solid and hazardous waste.
- Sustainable cities.
- Brownfields and urban redevelopment.

Specifically, Mr. Hecht mentioned a "livability grant" awarded to EPA Region 9 in relation to the issue of sustainable cities and the joint policy statement on remediation and redevelopment of the U.S.-Binational Commission (BNC), signed May 18, 2000.

Mr. Hecht then discussed the proposed "environmental justice commission" that had been one of three recommendations resulting from the August 1999 Roundtable on Environmental Justice on the U.S.-Mexico Border held in National City, California. First, he stated that he agreed that it is important that communities have a definite role in the decision-making process. He explained the two ways in which he believed that role could be defined: (1) through existing structures or (2) through direct structures created for that purpose. However, with the many changes currently affecting the border area, (new individuals involved and redefinition of the goals for the next 20 years), he pointed out, it was questionable whether such a changing environment was an opportune time to establish yet another new group. He added, however that, despite his hesitation, it was possible that some entity might emerge. Mr. Hecht then reported on an earlier promise that he had made to the International Subcommittee during the previous NEJAC meeting, that is, recommending minorities for vacancies within other advisory groups at EPA. He said that he had followed through on that promise and that he was proud to announce that Mr. Bravo was among the five new members nominated to serve on the Good Neighbor Environmental Board (GNEB). Exhibit 7-4 describes the GNEB.

Exhibit 7-4

GOOD NEIGHBOR ENVIRONMENTAL BOARD

The Good Neighborhood Environmental Board (GNEB) was created by the Enterprise for the Americas Initiative Act of 1992 (EAIA) (7 U.S. Code Section 5404) to advise the President and the Congress about environmental and infrastructure issues and needs within the states contiguous to Mexico. The statute requires the GNEB to submit an annual report to the President and the Congress. The GNEB has submitted reports in October 1995, April 1997, and July 1998. The GNEB's 1997 [and 1998] report[s] also were translated into Spanish and widely disseminated on both sides of the border.

The Act requires that the board membership include representatives from appropriate U.S. Government agencies; the governments of Arizona, California, New Mexico, and Texas; and private organizations, including community development, academic, health, environmental, and other non-governmental entities with expertise on environmental and infrastructure problems along the southwest border.

A presidential executive order delegates implementation authority to the administrator of the U.S. Environmental Protection Agency (EPA). The GNEB operates under the Federal Advisory Committee Act (FACA) and meets three times annually at locations along the U.S.-Mexico border.

Mr. Hecht's presentation then focused on the upcoming meeting of the Commission on Environmental Cooperation (CEC), scheduled for June 11 through 12, 2000 in Dallas, Texas. He highlighted important events and decisions that will be discussed. One key issue to be discussed at the CEC, he said, would be the importance of provisions for citizens suits so that citizens are free to speak out against government. He then illustrated the importance of the issue by briefly explaining the process. Anyone can file a suit before the commission. If the suit receives the support of two-thirds of the commission, the case proceeds to the fact-finding stage. During the previous week, Mr. Hecht continued, the suit against the Metales y Derivados site, located in Tijuana, Mexico, identified at the August 1999 Roundtable on Environmental Justice in the U.S.-Mexico Border as a recommended site for cleanup, was brought before the CEC. The CEC voted unanimously to advance the Metales y Derivados case to the fact-finding stage. These provisions, he had described, are extremely important and should be included as an

amendment in the North American Free Trade Agreement (NAFTA) Environmental Side Agreement. Exhibit 7-5 describes the agreement. Last, Mr. Hecht stated that the initiative on children's health is a key issue that would be discussed during the Dallas meeting, as would the need to focus internationally on children's health and drinking water. Mr. Hecht added that, in the future, he hoped to expand the initiative to include communities in Africa and Central and South America. He also stated that a phase-out of lead has been very successful in much of the world.

Exhibit 7-5

NORTH AMERICAN FREE TRADE AGREEMENT ENVIRONMENTAL SIDE AGREEMENT

The Environmental Side Agreement to the North American Free Trade Agreement (NAFTA) sought to provide a level playing field for free trade by committing the United States, Mexico, and Canada to effective enforcement of their respective environmental laws. Facilitated by the North American Commission on Environmental Cooperation, the three nations have created the North American Working Group on Environmental Enforcement and Compliance Cooperation and developed a cooperative program to stimulate and enhance effective enforcement in the three countries. In 1996 and 1997, the three countries initiated cooperative projects to:

- Improve compliance monitoring and enforcement for transboundary shipments of hazardous wastes and banned substances, such as ozone-depleting chlorofluorocarbons (CFC).
- Improve enforcement of restrictions on trade in endangered species.
- Cooperate in improving compliance and enforcement measures.
- Examine the role and effect of environmental management systems approaches in improving compliance and environmental performance.
- Develop cooperative approaches to the use of enforcement tools to ensure the sound management of toxic chemicals that are persistent in the environment.

Continuing his presentation, Mr. Hecht discussed the recent White House initiative, Partnership for Trade and Environment. EPA would be the beneficiary of

the initiative, the goal of which would be to fully understand the environmental effects of all trade activities and decisions, to identify areas outside of EPA's influence, and in those cases, to mobilize through the U.S. Agency for International Development (U.S. AID) and other relevant agencies. Although the \$4.5 million dollar initiative was eliminated in the U.S. House of Representatives just the preceding day, Mr. Hecht continued, it was a White House initiative, indicative of a positive step that shows that national leaders are beginning to recognize the importance of working with developing countries in the areas of trade and the environment. Otherwise, he warned, there would be a constant battle. Mr. Bravo commented that the main reason for the protests against the World Trade Organization that had occurred in Seattle, Washington, and Washington, D.C., is that the environmental justice component is not included in trade talks.

After he was asked by a member of the International Subcommittee what is being done to protect African communities from the adverse effects of poor environmental conditions, Mr. Hecht responded that Africa is one of the areas targeted for partnership efforts. However, he explained, despite all efforts that are carried out, it is up to the host government to take ultimate responsibility and consider the efforts to be in their own best interests.

Mr. Hecht then addressed other recommendations that developed during the August 1999 Roundtable on Environmental Justice on the U.S.-Mexico Border. In the matter of the cleanup of the Metales y Derivados site, he explained that, because the site is located on private land in Mexico, it is more difficult for EPA to fund the cleanup. One option for cleanup is for the Mexican government to seek extradition, but that approach would be time-consuming and already there is reluctance on the part of Mexican authorities, he explained. However, he commented, private-sector interest in the Metales y Derivados site is growing and the Secretaria de Medio Ambiente Recursos Naturales y Pesca (SEMARNAP) and EPA continue to meet. Again, he continued, because of the upcoming elections, little can be done, other than laying the foundation for the new administration. When asked why the focus was on the Metales y Derivados site, rather than the Presto Lock or Gato Negro site, also identified during the August 1999 Roundtable on Environmental Justice on the U.S.-Mexico Border, Mr. Hecht responded that the Metales y Derivados site is an American-owned site and it is a "bigger blemish" than the other two sites.

The Status Report on the Water and Wastewater Infrastructure Program for the U.S.-Mexico Borderlands, prepared by the Pan American Health Organization in May 2000, illustrates that human health risk at borders is an issue that must be addressed, said Mr. Hecht. Adverse effects on human health are much more prevalent in residents of border areas than in other segments of the population, he said in conclusion.

5.0 DIALOGUE WITH THE SOUTH AFRICAN DELEGATION

Mr. Garcia welcomed the South African delegation and opened the floor to public dialogue and requested that Dr. McClain begin the discussions.

Dr. McClain began the discussion by acknowledging that environmental justice concerns are the same for both countries, the U.S. and South Africa, and have been reiterated repeatedly and that the goal of environmental justice efforts is to build initiatives that rely on people and communities, rather than relying on funding from government or on sanctions. Some of the questions that the South Africa delegation had, Dr. McClain continued, were structural in nature. They included how the NEJAC functions and how the International Subcommittee operates, she added. The study tour to the United States, Dr. McClain added, had been conducted so that the South Africans interested in environmental justice could learn from the lessons learned through the NEJAC process.

Mr. Thabo Madihlaba, Environmental Justice Network Forum and member of the South Africa delegation, stressed the importance of the trip, saying that South Africa does not have an environmental policy and that the prevailing thought and concern is more geared toward conserving nature than toward people and living with pollution. He explained further that the very concept of environmental justice is unknown in South Africa; it is addressed, he said, as a health problem having a much narrower scope than the United States concept of environmental justice. At the same time, he added, multinational firms that have few environmental standards are allowed to pollute, people are removed forcefully from their homes to make way for industrial operations, and ailments related to occupational conditions occur.

Ms. Elsie Motubatse, Swaranang and member of the South Africa delegation, commented on the lack of environmental awareness, stating that mines were left open after they were abandoned, with no attempt made to close the open mine shaft. Ms. Sally Phetoe, Congress of South African Trade Unions

(COSATU) and member of the South Africa delegation, added that platinum mining is carried out in most of the northwestern province of South Africa; yet, she said, there are only two occupational health and safety policies in place. Continuing, she commented on the lack of appropriate and comprehensive legislation, declaring that the country has no policy on determining whether companies have in fact implemented the two existing policies.

Mr. Sanwabo Ndandani, Tsoga Environmental Center and member of the South Africa delegation, reported on conditions in Touthip, population 25,000. He decried the community's close proximity to a sewage plant located in the center of the community. He added that wetlands in the area are filled with poisons and are dangerous to the communities surrounding them. He stated that four public meetings had been conducted. In South Africa, he explained, competition exists between communities and the government and plants that exist around communities should be shut down. Mr. Musa Mzimela, Masikhule Nobunye and member of the South Africa delegation, stated that, between 1994 and 1999, there was little change in legislation. In 1999, he continued, a national environmental care management act was created; at that time, he pointed out, most of the industries in South Africa were not South African-owned. Mr. Mzimela then stated his belief that he believes that the United States and Great Britain are obligated to cleanup the environmental damage in South Africa, since those two countries are the generators of the pollutants.

Mr. Madihlaba explained that South Africa has neither regulatory or monitoring mechanisms nor the capacity in terms of human and economic resources to conduct adequate research. There are approximately 1,000 landfill sites in the country, he added, and he and the other members of the South Africa delegation want the government to tell the people (1) how many landfill sites there are, (2) what human health risks those landfills pose to nearby communities, and (3) what strategies using environmentally friendly methods should be used to clean up those landfills.

When the discussion was opened to members of the subcommittee, Mr. Garcia commented that he appreciated the comments made by the delegation and noted many similarities between their experiences and those of environmental justice communities in this country. Mr. Alberto Salamando, General Counsel, International Indian Treaty Council, commented that America still struggles with racism and still deals with colonialism with the treatment of American Indians, which has not ended. While Mr. Salamando acknowledged that he could

not offer a solution, he suggested that the government of South Africa should allow communities to sue the perpetrators of the pollution. He then stated that everything is assessed in dollars, but that a community's well being and human life cannot be assessed in terms of dollars. The global economic system promotes the degradation of the environment, he added.

Mr. John Armstead, Deputy Director, Environmental Services Division, EPA Region 3, added that the discussion of the global economy should include discussion of the global environment as the two are linked. The South Africa delegation had been brought together with the NEJAC to understand lessons learned in addressing environmental justice issues, he explained, and South Africa is in need of an environmental justice forum at the ministry level, he added.

Mr. Madihlaba asked the members of the International Subcommittee whether there was a U.S. policy on South Africa that encouraged industry through an incentive program and encouraged people to invest in South Africa in an environmentally friendly way. Mr. Hecht responded by stating that it is difficult to characterize a coherent U.S. policy, since many agencies are involved in many projects and programs; however, he added, there is a general policy that provides incentives solely to promote investment by companies. South Africa is not attracting business, he commented, by maintaining low environmental standards. Mr. Salamando elaborated on that point, stating that companies continue to invest as long as the investment is profitable. Mr. Madihlaba then asked whether there are environmental regulations that govern U.S. companies that wish to establish a facility in another country. Mr. Tseming Yang, Vermont Law School, answered by stating that multinational corporations prohibit their U.S. corporation or subsidiaries from bribing officials in other countries. Mr. Yang explained that companies must act in an ethical and legal manner when conducting business abroad.

In the few minutes remaining, Mr. Salamando briefly commented that the World Conference on Environmental Racism would provide an opportunity to examine how international consciousness can be raised. He distributed a memorandum on the subject and encouraged the members to read it. He then asked for the subcommittee's permission to work with Mr. Hecht to request that the NEJAC participate in the conference.

6.0 SIGNIFICANT ACTION ITEMS

- ✓ The members of the International Subcommittee agreed to review and comment on a proposed resolution of the Indigenous Peoples Subcommittee on the proposed international treaties related to persistent organic pollutants.
- ✓ The members of the International Subcommittee requested that a work group on farm workers (Hispanic and non-Hispanic) be established to examine economic, social, environmental, and public health issues.
- ✓ Ms. Beth Hailstock, Director, Environmental Justice Center, requested that a roundtable meeting devoted solely to issues related to farm workers be organized and that representatives of all pertinent agencies and all relevant community groups participate.
- ✓ Mr. Cuevas requested that universities develop programs through which workers can receive training about the effects of pesticides on human health.
- ✓ The members of the International Subcommittee requested that a work group be established to focus on follow-up issues from the Roundtable on Environmental Justice on the U.S.-Mexico Border.

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MEETING SUMMARY

of the

WASTE AND FACILITY SITING SUBCOMMITTEE

of the

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

**May 25, 2000
ATLANTA, GEORGIA**

Meeting Summary Accepted By:



**Kent Benjamin
Office of Solid Waste and
Emergency Response
U.S. Environmental Protection Agency
Designated Federal Official**

**Vernice Miller-Travis
Chair**

**CHAPTER EIGHT
MEETING OF THE
WASTE AND FACILITY SITING SUBCOMMITTEE**

1.0 INTRODUCTION

The Waste and Facility Siting Subcommittee of the National Environmental Justice Advisory Council (NEJAC) conducted a one-day meeting on Thursday, May 25, 2000, during a four-day meeting of the NEJAC in Atlanta, Georgia. Ms. Vernice Miller-Travis, Partnership for Sustainable Brownfields Redevelopment, continues to serve as chair of the subcommittee. Mr. Kent Benjamin, Environmental Justice Coordinator, Outreach/Special Projects Staff (OSPS), U.S. Environmental Protection Agency (EPA) Office of Solid Waste and Emergency Response (OSWER), continues to serve as the Designated Federal Official (DFO) for the subcommittee. Exhibit 8-1 presents a list of the members who attended the meeting and identifies those members who were unable to attend.

This chapter, which provides a summary of the deliberations of the Waste and Facility Siting Subcommittee, is organized in six sections, including this *Introduction*. Section 2.0, *Remarks*, summarizes the opening remarks of the chair and the Assistant Administrator of EPA OSWER. Section 3.0, *Update on Work Groups of the Subcommittee*, summarizes the activities of the work groups of the subcommittee. Section 4.0, *Presentations and Reports*, presents an overview of each presentation and report received by the subcommittee, as well as a summary of questions asked and comments offered by the members of the subcommittee. Section 5.0, *Summary of Public Dialogue*, summarizes discussions offered during the public dialogue period provided by the subcommittee. Section 6.0, *Significant Action Items*, summarizes the significant action items adopted by the subcommittee.

The members of the subcommittee also participated in a joint session with the Health and Research Subcommittee of the NEJAC to discuss the exposure investigation of Mossville, Calcasieu Parish, Louisiana, conducted by the Agency for Toxic Substances and Disease Registry (ATSDR) in November 1999. Chapter nine of this document provides a summary of the deliberations of the joint session.

Exhibit 8-1

**WASTE AND FACILITY SITING
SUBCOMMITTEE**

Members

**Who Attended the Meeting
May 25, 2000**

Ms. Vernice Miller-Travis, **Chair**
Ms. Veronica Eady, **Vice Chair**
Mr. Kent Benjamin, **DFO**

Ms. Denise Feiber
Ms. Donna Gross McDaniel
Ms. Patricia Hill Wood
Mr. Melvin Holden

Ms. Katharine McGlooin
Mr. Harold Mitchell
Mr. Neftali Garcia Martinez
Ms. Mary Nelson
Ms. Brenda Lee Richardson
Mr. Mervyn Tano
Mr. Michael Taylor
Mr. Johnny Wilson

Members

Who Were Unable To Attend

Ms. Lorraine Granado
Mr. Michael Holmes
Mr. David Moore

2.0 REMARKS

Ms. Miller-Travis opened the subcommittee meeting by welcoming the members present and Mr. Benjamin, as well as Mr. Timothy Fields, Jr., Assistant Administrator, EPA OSWER, and Mr. Michael Shapiro, Principal Deputy Assistant Administrator, EPA OSWER. Ms. Miller-Travis also introduced Ms. Veronica Eady, Executive Office of Environmental Affairs, Commonwealth of Massachusetts, as the vice-chair of the subcommittee. At the conclusion of Ms. Miller-Travis' welcoming remarks, Mr. Fields greeted the members of the subcommittee and informed the members of the public present that "EPA officials are not members of the subcommittee, but helpers." He then briefly outlined some initiatives the

subcommittee had been involved in. Those initiatives include, but are not limited to, relocation of residents under Superfund, facility siting under the Resource Conservation and Recovery Act (RCRA), minority worker training, and the Brownfields Economic Redevelopment Initiative. Ms. Miller-Travis added that OSWER and the subcommittee had spent significant time developing a partnership. Mr. Shapiro then greeted the members of the subcommittee and informed the group that OSWER had been working to follow up on suggestions previously offered by the subcommittee.

3.0 UPDATE ON WORK GROUPS OF THE SUBCOMMITTEE

This section discusses the activities of the work groups of the Waste and Facility Siting Subcommittee of the NEJAC.

3.1 Waste Transfer Stations Work Group

Ms. Sue Briggum, Director of Government Affairs, Waste Management, Inc. and former member of the Waste and Facility Siting Subcommittee of the NEJAC, made a presentation on the status of the report, *A Regulatory Strategy For Siting and Operating Waste Transfer Stations*. The report, which was developed by the Waste Transfer Stations (WTS) Work Group of the Waste and Facility Siting Subcommittee, provides to EPA OSWER recommendations and suggestions related to WTSs. Exhibit 8-2 describes the purpose of the WTS work group. The report was submitted to the EPA Administrator in March 2000.

Following Ms. Briggum's status report, Mr. Fields informed the members of the subcommittee about EPA's *Municipal Solid Waste Transfer Station Action Strategy*. The report outlines actions and best management practices (BMP) EPA plans to implement in response to environmental justice concerns related to WTSs that the WTS Work Group set forth in its report. According to Mr. Fields, OSWER agrees with the recommendations presented in the report of the WTS Work Group and plans to address issues raised specifically about such facilities located in New York City and Washington, D.C. In the case of many of the suggestions, said Mr. Fields, it will take some time to scope out and implement appropriate actions. However, he added that other suggestions will be acted on right away. The draft status report is a work in progress and an intra-agency work group has been formed to continue working with the subcommittee, he continued. An action meeting was to be held on June 11, 2000 to discuss BMPs, he then announced.

THE WASTE TRANSFER STATIONS WORK GROUP OF THE WASTE AND FACILITY SITING SUBCOMMITTEE

The Waste Transfer Stations (WTS) Work Group of the Waste and Facility Siting Subcommittee is charged with conducting fact-finding efforts and issuing recommendations to the U.S. Environmental Protection Agency (EPA) for a national approach to addressing the effects of the siting and operation of WTSs on low-income and people of color communities. A WTS serves as a temporary storage facility where waste can be stored for no more than 10 days while it is being transported to a permanent disposal facility. The disproportionate effects of clustered siting and operation of WTSs in a number of municipalities, including New York City (NYC) and Washington, D.C., was brought to the attention of the National Environmental Justice Advisory Council (NEJAC) in May 1997. The NEJAC had been advised that in certain communities in NYC, there is a disproportionate concentration of WTSs. As a consequence, those communities suffer adverse health, environmental, and economic effects. In addition, the city's current regulatory process does not address such concerns adequately. The NEJAC had been advised further that representatives of such communities feared that those conditions would be exacerbated by the impending closure of Fresh Kills Landfill, NYC's only remaining landfill.

Mr. Fields also stated that OSWER was working to resolve issues related to marine WTSs. An operations and maintenance manual was being developed to specify cleanup technologies, waste handling procedures, reporting and record keeping procedures, and other matters, he said. The EPA report promotes community participation, he continued, and OSWER also was developing a citizen's guide that provides information about how WTSs operate and how environmental justice issues are addressed. The EPA report also focuses on waste reduction and facility siting as well as uses the principles of the *Model Plan for Public Participation* developed by the NEJAC.

In addition to the draft status report, OSWER was engaging in dialogue with local officials and was to hold forums in New York City in which the public will be invited to participate, said Mr. Fields. It is hoped, he added, that such a targeted approach will help facilitate change.

Mr. Fields then offered special thanks to Ms. Briggum, the WTS Work Group, and officials of EPA Region 2.

Ms. Miller-Travis informed the new members of the subcommittee that the OSWER response report is the product of work carried out over a period of three years. She then asked Mr. Fields and Mr. Shapiro about the response of state and local officials to the report. Mr. Fields replied that many of the responses focused on the observation that not all cities have the problems found in New York and Washington, D.C. Some counties have acceptable operations, he pointed out. Similarly, responses from state officials point out that not all states have such problems, he continued. Mr. Shapiro added that a single model may not be adequate for all situations. However, he noted, in general, the response to the report had been positive. Ms. Miller-Travis then asked whether the Agency has heard from officials of New York City. Mr. William Muszynski, Deputy Regional Administrator, EPA Region 2, informed the subcommittee that EPA had not heard formally from officials of New York City. However, EPA Region 2 is in discussion with those officials, he stated.

Ms. Miller-Travis then thanked Mr. Fields and the OSWER staff for the hard work they had devoted to the development of the recommendation report. Mr. Michael Taylor, Vita Nueva, pointed out that failure to hold all industries to the same standards creates problems. Ms. Briggum responded that the problem remains the number of new facilities.

Mr. Neftali Garcia Martinez, Scientific and Technical Services, asked for information about action to be taken in New York City and Washington, D.C. Mr. Fields told the subcommittee that such information would be forthcoming.

Ms. Mary Nelson, Bethel New Life, Incorporated, asked Mr. Fields what mechanisms would be used to disseminate the information to other regions. Mr. Fields responded that the Agency recognizes that there are similar problems in other parts of the country. He asked that people inform the Agency of areas in great need. The citizen's guide is intended to be used in other communities, he added. Ms. Thea McManus, EPA OSWER, also responded that the information would be distributed through public health groups and workshops would be held to discuss implementation.

Ms. Denise Feiber, Environmental Science and Engineering, Inc., asked how the subcommittee will be kept informed of actions related to the WTS issue. Mr. Fields answered that he would provide updates to Ms. Miller-Travis. He also suggested that other members of the subcommittee could be designated as points of contact. He suggested further that members of the subcommittee could become involved in focus groups. Ms. Miller-Travis

observed that an establishment of an "implementation group" would be appropriate. She suggested that the following individuals serve as members of that group: Mr. Garcia Martinez, Ms. Briggum, and Ms. Samara Swanston, The Watch Person Project.

Ms. Swanston then spoke briefly about the approach that should be taken in the BMP manual to address enforcement in New York City. She also stated that no WTSs should be located on waterfronts. Mr. Fields added that the BMP manual will include a citizen's guide that will address involvement of citizens. Ms. Swanston then stated that the issue of clustering is not addressed adequately. Mr. Fields responded that EPA's report on *Municipal Solid Waste Transfer Station Action Strategy* is a work in progress. He suggested that members of the subcommittee provide additional comments about areas they believe require improvement.

Ms. Eady volunteered to serve as a member of the implementation group and requested that EPA Region 1 should be involved in the process. Mr. Fields then discussed the regional conference calls that are held monthly, suggesting that the response report be added to the agenda of those conference calls.

Mr. Mervyn Tano, International Institute for Indigenous Resource Management, stated that some of the issues discussed in the response document are related to the development of technology. Ms. Briggum added that research and development is difficult because of competitiveness in industry. It is difficult, she noted, for specific companies to conduct research and development. Mr. Tano added that there is a lack of public participation in industry research and development. Mr. Fields agreed with Mr. Tano's observation. Mr. Tano then added that the BMP manual should cover processes that occur after a specific BMP has been implemented. For example, processes that take place after garbage is collected, such as compaction and disposal should be taken into account.

3.2 Brownfields Work Group

Mr. Taylor updated the subcommittee on the activities of the Brownfields Work Group of the Waste and Facility Siting Subcommittee. Mr. Taylor began his update with a discussion of the economic factors in brownfields redevelopment. Mr. Taylor stated that there are four key areas in which communities can have influence on redevelopment. Those areas, he said, are: (1) recognize the need or vision for redevelopment, (2) recognize the business opportunity, (3) take the initiative, and (4) compile

initial information. Redevelopment planning should focus on returning benefits to the community, he declared. Mr. Taylor also stated that the community should be involved in the land use planning process. Further, potential exposure pathways for future planned use should be investigated before redevelopment, he added.

Mr. Taylor presented to the subcommittee draft recommendations related to the involvement of stakeholders in environmental and land use decision making. The recommendations encourage EPA to “develop a directive that incorporates the following principles and audit all programs for their stated policies, as well as practices in stakeholder involvement and land use, against the following principles that support the promotion of environmental justice.

- Early and meaningful involvement of affected communities in decisionmaking processes.
- Definitions of “stakeholders” that correspond to definitions in American Society for Testing and Management (ASTM) Standard E-1984-98, particularly the definition of the community as a special stakeholder group consisting of those who live and/or work around the site.
- Integration of land use planning, as it affects decisions regarding improvements in public health and the environment, into all programs.
- Encouragement of community-based planning as a critical methodology for environmental protection and promotion of its use “inside and outside the Agency.”

The draft recommendations are meant to involve communities from the very beginning of the process, continued Mr. Taylor. Community-based planning is integral, he said. Ms. Miller-Travis stated that the draft recommendations are consistent with the results of the strategic planning session of the subcommittee held in Washington, D.C. She stated that EPA had no authority to direct local governments in the areas of local land use and zoning. She then stated her belief that implementation of the recommendations will prevent lawsuits filed under Title VI of the Civil Rights Act of 1964 (Title VI). Mr. Fields responded that the recommendations point to a real need and that EPA already was examining the issue of community involvement in local land use and zoning decisions.

Ms. Feiber thanked Mr. Taylor specifically for the first recommendation, stressing the importance of early and meaningful involvement. Ms. Brenda Lee Richardson, Women Like Us, then expressed her strong support for the recommendations. Ms. Richardson stated that one of the challenges communities face is to establish a working relationship with Federal authorities. She challenged EPA to bring other Federal agencies involved in brownfields efforts to the table, suggesting that EPA facilitate a meeting in Washington, D.C.

Ms. Miller-Travis stated that the subcommittee was in concurrence with the draft recommendations.

Mr. Johnny Wilson, Clark Atlanta University, asked whether there is a working definition of the term “meaningful community involvement.” Ms. Miller-Travis added that the phrase “critical methodology” must be defined, as well.

3.3 Superfund Redevelopment Initiative Work Group

Ms. Feiber provided a status report on the activities of the Superfund Redevelopment Initiative Work Group. The purpose of the work group is threefold, she said: (1) to participate in the development of EPA policy on the Superfund Redevelopment Initiative (Section 4.6 of this chapter describes the initiative); (2) to provide recommendations about plans to redevelop Superfund sites for productive and appropriate reuse; and (3) to ensure that environmental justice issues and community outreach efforts are incorporated meaningfully into program policies and plans. Ms. Feiber informed the subcommittee that the members of the work group had identified a number of issues and concerns related to the Superfund Redevelopment Initiative. Those concerns include remedy selection, education of remedial project managers and others about the opportunities that the initiative presents, lack of significant involvement of regional environmental justice staff in the program, implications of the use of institutional controls, and the need for a representative of a potentially responsible party (PRP) to serve on the subcommittee’s work group.

Activities of the work group to date had included review of proposed guidelines for the document Superfund Redevelopment Initiative Pilot Program, conversations with Ms. Bonnie Gross, EPA Region 3, about the Avtex Fibers site in Front Royal, Virginia, and numerous conversations with program staff, she reported further.

Ms. Feiber concluded her status report by outlining the goals of the work group, listing them as follows:

- Define and articulate the concerns of the Waste and Facility Siting Subcommittee related to the Superfund Redevelopment Initiative.
- Define the role of the subcommittee.
- Establish how the work group will interact with OSWER.
- Define concrete ways to have a positive effect in the areas of concern identified.
- Help achieve the goals of the NEJAC (gather a broader range of opinions).
- Effectively integrate stakeholder concerns into remedy selection.

4.0 PRESENTATIONS AND REPORTS

This section summarizes the presentations made and reports submitted to the Waste and Facility Siting Subcommittee of the NEJAC.

4.1 Presentation on International City/County Management Association Activities

Ms. Miller-Travis asked Ms. Molly Singer, International City/County Management Association (ICMA), to update the subcommittee on the activities of her organization. Ms. Singer informed the subcommittee that an ICMA report on institutional controls was to be released soon. The recommendations set forth in the report are based on four years of research, she noted. Ms. Singer then reported that ICMA was working with the city of Clearwater, Florida to develop a model environmental justice plan for conducting effective environmental justice and land use activities. Ms. Miller-Travis asked when the model action plan would be completed. Ms. Singer replied that the model plan will be developed after the city of Clearwater provides its views to ICMA. A draft plan should be available within three months and a final version of the plan should be available within a year, she said. Ms. Miller-Travis asked that Ms. Singer remain in contact with Mr. Benjamin.

4.2 Presentation on New Bethel Life, Inc. Activities

Ms. Nelson presented information about the New Bethel Life, Inc. organization. New Bethel Life, she

explained, is a community development corporation. The organization, she continued, adheres to two basic principles: (1) sustainable community development and (2) ecological integrity and environmental quality. Other principles of the organization include high quality of life and public participation, she added. A major environmental initiative of the group is local worker training and placement, said Ms. Nelson. She explained that New Bethel Life strives to turn liabilities into assets. To do so, the group identifies available sites, performs data collection, and markets information about viable sites to redevelopers. Ms. Nelson then provided a slide presentation on a site in Chicago that was redeveloped with the help of New Bethel Life.

Mr. Wilson asked about the effect of the project on the poor people who lived in the area before the redevelopment project. Ms. Nelson replied that old homes were renovated and new homes were to be built. Ms. Miller-Travis asked Ms. Nelson to state the demographics of the area. Ms. Nelson answered that the area is 96 percent African American. She also stated that membership of the board of directors of the redevelopment project reflects the composition of the community. Mr. Tano asked what provisions had been made for home ownership. Ms. Nelson responded that many programs, such as "Sweat Equity" and cooperative housing opportunities are in place to help facilitate home ownership for residents of the area.

4.3 Update on the U.S. Environmental Protection Agency Brownfields Job Training and Development Demonstration Pilot Program

Ms. Myra Blakely, EPA OSPS, provided an update on the EPA Brownfields Economic Redevelopment Initiative Job Training and Development Demonstration Pilot program. Exhibit 8-3 describes the Brownfields Job Training and Development Demonstration Pilot Program. To date, she reported 37 job training pilot projects are in place.

The pilot program establishes links with schools so that participants can obtain two- and four-year degrees. The majority of the jobs will be created as a result of redevelopment efforts, Ms. Blakely reported. Most of the job training pilots are funded by the U.S. Department of Labor. Ms. Blakely provided the following statistical information:

- 16 of 21 pilots reported 750 participants.
- 495 participants have completed training.

Exhibit 8-3

**BROWNFIELDS JOB TRAINING AND
DEVELOPMENT DEMONSTRATION PILOT
PROGRAM**

In 1998, the U.S. Environmental Protection Agency (EPA) launched a new element of its Brownfields Economic Redevelopment Initiative to help local communities take advantage of jobs created by the assessment and cleanup of brownfields sites, and to facilitate the cleanup of these sites – the Brownfields Job Training and Development Demonstrate Pilot program. Each job training pilot project, located within or near a Brownfields Assessment Demonstration pilot project, is designed to train residents in communities effected by brownfields sites. These skills then can be used for future employment in the environmental field, including conducting cleanups using innovative technology. Each pilot project monitors the progress of the trainees for at least one year as they seek employment in the environmental field.

Each job training pilot project is awarded up to \$200,000 over a two-year period. Colleges, universities, community job training organizations, nonprofit training centers, states, counties, municipalities, Federally recognized tribes, and U.S. territories are eligible for the job training grants.

- 268 participants are employed in environmental jobs.
- There are pilot programs in all 10 EPA regions.

In response to Ms. Miller-Travis' inquiry about funding levels for the pilots, Ms. Blakely stated that the pilots are funded at various amounts up to \$200,000. That amount of money allows trainees, for example, to rent cars for transportation to work, she noted. Childcare also is made available, she added. Ms. Donna Gross McDaniel, Laborers-AGC Education and Training Fund, then stated that job training is important in the brownfields redevelopment effort. She added that she believed that there must be some way to provide continued training. Ms. Blakely replied that EPA was exploring the possibility of providing supplemental funding. Ms. Nelson suggested that an interagency link be established for funding. Mr. Taylor stated that trainees often are placed in short-term jobs. Ms. Blakely responded that the pilot programs are working to encourage employers to provide sustainable employment. Ms. Eady added that the

Commonwealth of Massachusetts is concerned about tracking the pilot programs. Ms. Blakely stated that the pilots are able to report their progress accurately.

4.4 Update on U.S. Environmental Protection Agency Social Siting Booklet

Ms. Karen Randolph, EPA Office of Solid Waste (OSW), presented the final draft of the EPA *Social Aspects of Siting RCRA Hazardous Waste Facilities*. The booklet was developed at the request of the Waste and Facility Siting Subcommittee of the NEJAC to serve as a companion to the May 1997 brochure, *Sensitive Environments and the Siting of Hazardous Waste Management (HWM) Facilities*. The May 1997 brochure addressed technical issues related to the siting of HWM facilities, where the new booklet, she pointed out, focuses more sharply on the social aspects of the siting of such facilities. The booklet is intended to help industry and state, tribal, and local government agencies develop an increased awareness of communities' concerns about quality of life that arise when decisions related to siting are made about HWM facilities.

The next phase of the booklet project involves distribution, said Ms. Randolph. The booklet will be available on the Internet, she announced.

Mr. Benjamin thanked the members of the subcommittee and the staff of OSW who had worked on the booklet project. Ms. Miller-Travis asked whether EPA would look to the document for guidance. Mr. Shapiro responded that, with respect to community involvement, EPA will use the booklet. Ms. Patricia Hill Wood, Georgia Pacific Corporation, suggested that the booklet should be distributed widely.

4.5 Discussion of Socioeconomic Vulnerability

Mr. Michael Callahan, EPA Office of Research and Development (ORD), discussed the topic of cumulative risk. Mr. Callahan defined cumulative risk as the combined risks posed by two or more agents or stressors. Mr. Callahan expressed his interest in learning the views of the members of the Waste and Facility Siting Subcommittee about what components should be included in a framework to be developed on assessing cumulative risk. Ms. Miller-Travis reviewed several points for the members of the subcommittee who had not been present at the Executive Council in December 1998 when the subject was discussed. No community is exposed to only one chemical or contaminant, she said. The

question of how environmental protection is considered in cases of multiple exposures is being examined, she continued, and that a system or method for the identification of synergistic effects is needed. Mr. Callahan then stated that the document to be developed would be a broad overview, similar to an ecological framework document. The issue of synergy will involve identifying those factors that are important, he said. The primary audience of the new framework document will be staff of EPA, he noted, although, the document should serve people outside EPA, as well. Mr. Callahan then pointed out that risk assessment is a tool.

Ms. Eady asked when the draft document was expected to be completed. Mr. Callahan replied that the draft should be available in approximately 16 months. Ms. Eady also asked how EPA would consider cross-media exposure. Mr. Callahan answered that the framework would examine all factors that affect the population. He stressed that the framework will be a "science document," not a "policy document."

Mr. Tano stated that the science of probability is inexact at best. Mr. Callahan agreed that data associated with risk assessment is uncertain. Mr. Tano then asked whether, with respect to health effects, the framework would focus on specific age groups. Mr. Callahan replied that it would focus on that issue.

Ms. Richardson asked how data would be validated and what role local health departments would play. Mr. Callahan responded that there is a science aspect of probability and a policy aspect, for example, the level of probability of harm is a policy decision, he observed. Ms. Richardson responded that policy and science must go hand-in-hand.

Ms. Miller-Travis asked how the peer review process would take place under the framework. Mr. Callahan responded that the first cycle of the process is the gathering of questions from the appropriate stakeholders. Ms. Miller-Travis asked whether members of an affected community are stakeholders in the process. Mr. Callahan replied that they are. Ms. Miller-Travis then stated that the subcommittee should continue to discuss the topic and should also develop a mechanism for involving all the other subcommittees of the NEJAC in the review of the proposed framework.

4.6 Update on U.S. Environmental Protection Agency Superfund Redevelopment Initiative

Mr. John Harris, EPA Office of Emergency and Remedial Response (OERR), presented information about the status of the Superfund Redevelopment Initiative. Exhibit 8-4 describes the Superfund Redevelopment Initiative. He reported that 10 pilot

Exhibit 8-4

U.S. ENVIRONMENTAL PROTECTION AGENCY SUPERFUND REDEVELOPMENT INITIATIVE

On July 23, 1999, the U.S. Environmental Protection Agency (EPA) announced the Superfund Redevelopment Initiative, a coordinated national effort to help communities redevelop formerly contaminated Superfund sites and return them to use as new parks, retail operations, and industrial facilities. Through the initiative, EPA will help communities convert environmental liabilities into community assets. At every cleanup site, EPA will ensure that there is an effective process and the necessary tools and information needed to fully explore future use are available before EPA implements a cleanup remedy.

EPA has begun to implement the initiative on a pilot-project basis to demonstrate and improve the techniques it has developed after having studied the redevelopment process at sites at which reuse already has occurred. The Agency also is refining policies; building partnerships; sharing information about successful reuse; and informing local governments, community groups, developers, and other affected stakeholders about options available in the redevelopment of Superfund sites.

For more information about the initiative, visit EPA's Internet home page at
<<http://www.epa.gov/superfund/programs/recycle/index.htm>>.

projects have been selected on a noncompetitive basis since July 1999 and that one reuse plan has been completed. Mr. Harris then stated that a second-round competitive process had been announced in December 1999. During that process, 56 proposals were received, and sites in 26 states had been selected. The criteria used in evaluating proposals included project strategy, budget, Superfund cleanup phase, expected role of the current or future site owner, expected role of the state, and clearly identified additional value through

the assistance of EPA, he continued. Recommendations of proposals for acceptance were to be made to Mr. Fields on June 6, 2000, he said, and pilot awards would be announced in mid-June, 2000.

Upon finishing his status report, Mr. Harris asked the members of the subcommittee to help identify the need for a third round of pilot projects. Ms. Miller-Travis agreed that the subcommittee would do so. Mr. Harris asked how his office could reach potential applicants. Ms. Miller-Travis then asked whether PRPs know the process is available. Ms. Feiber asked where to obtain information about the initiative. Mr. Harris replied to Ms. Feiber that a "fair amount" of information is available on the Internet. Ms. Feiber then asked how post-record of decision (ROD) activities would be addressed. Mr. Harris responded that there is greater opportunity for pre-ROD involvement.

4.7 Status Report on the Relocation Policy and Forum

Ms. Suzanne Wells, EPA OERR and Ms. Pat Carey, EPA OERR, presented a status report on the relocation policy and forum. Exhibit 8-5 describes background information about the relocation policy.

Exhibit 8-5

BACKGROUND INFORMATION ABOUT THE RELOCATION POLICY

In January 1995, the Waste and Facility Siting Subcommittee of the National Environmental Justice Advisory Council (NEJAC) requested that the U.S. Environmental Protection Agency (EPA) develop a policy to be used in determining when citizens should be relocated from residential areas near or affected by Superfund sites. EPA initiated the national relocation pilot project at the Escambia Woodtreating Superfund Site in Pensacola, Florida. EPA reviewed sites at which cleanups were conducted in residential areas and solicited the views of stakeholders by sponsoring a series of forums to provide stakeholders the opportunity to share their views and experiences.

In 1996 and 1997, reported Ms. Wells, seven forums were held for representatives of industry; state and local government; and public health, tribal, environmental justice, and other agencies. She explained that on June 30, 1999, the *Interim Final Policy on the Use of Permanent Relocations as Part*

of Superfund Remedial Actions was issued, she continued. The document, Ms. Wells continued, discusses the circumstances under which permanent relocation should be conducted as part of cleanup at a site that is included on the National Priorities List (NPL). The policy provides examples of situations in which permanent relocation could be considered, she said. The policy also stresses community involvement in relocations, said Ms. Wells.

A multistakeholder meeting was held in Washington, D.C. in March 2000, continued Ms. Wells. The meeting provided stakeholders the opportunity to share their comments on both policy and implementation issues. Characteristics of a successful relocation were identified during the meeting, she added.

The next steps in the development of the final policy involve the completion of case studies, the development of "mini-guidance" documents, the conduct of outreach forums, and the implementation of the guidance, said Ms. Wells.

4.8 Presentation by the U.S. Department of Transportation on the Uniform Relocation Act

Mr. Ronald Fannin, U.S. Department of Transportation (DOT), and Mr. Reginald Bessmer, DOT, presented information about the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Mr. Fannin explained that the intent of the act is to solve problems affecting people and reimburse the costs associated with moving. This act, he explained, governs what the Federal government can and cannot do in relocating people. Information about the act can be found at <http://www.fhwa.dot.gov/environment/env.sum.htm>, they noted. Ms. Miller-Travis pointed out that the act is the law that governs Superfund relocations.

4.9 Guidance for Reducing Toxics Loadings

The Air and Water Subcommittee held a joint session with the Waste and Facility Siting Subcommittee to discuss EPA's draft guidance for the efforts of local areas to reduce levels of toxics.

Mr. Fields acknowledged the efforts of Ms. Dana Minerva, Deputy Assistant Administrator of EPA Office of Water (OW) and Mr. Robert Brenner, Acting Deputy Assistant Administrator of EPA Office of Air and Radiation (OAR) to reduce toxics loadings in overburdened areas. He introduced a draft

guidance proposed by EPA that is intended to provide ideas and incentives to help states and localities reduce levels of toxics in their communities. He explained that the guidance describes a priority process for approval of state implementation plans (SIP) that include toxic reduction plans, financial support for programs under which environmental justice issues are addressed, and Federal recognition of state and local programs intended to reduce levels of toxic pollutants. He added that the guidance also includes an appendix that describes ways in which state and local governments can work together to reduce pollution in their communities.

Mr. Fields asked members of the two subcommittees for their comments. He asked that they provide their opinions about whether the guidance is adequate and complete and whether the administrative benefits are sufficient to encourage state, local, and tribal governments to participate in achieving reductions in levels of toxics. He also asked for additional incentives that may encourage various sectors to participate. He asked that the subcommittee review the guidance and provide comments to Ms. Jenny Craig, EPA OAR, by June 30, 2000. Mr. Fields added that EPA would then revise the guidance in response to comments received and present the revised version to the subcommittee for the next meeting of the NEJAC.

Ms. Nelson commented that the incentives currently listed in the draft guidance "sound wonderful," but stated that she would expect that many governments will not participate. She asked whether there were any regulatory mechanisms that could be used to encourage participation. Mr. Fields responded that the effort must be voluntary, since there currently is no regulatory mandate to participate. He added that EPA therefore must provide good incentives.

Ms. Rosa Hilda Ramos, Community of Cataño Against Pollution and member of the Air and Water Subcommittee of the NEJAC, asked why the guidance covers only hazardous or toxic substances. Ms. Craig explained that each EPA program uses a different definition of hazardous and toxic substances. She stated that, in the guidance, those terms have a general meaning. Ms. Craig added that the definitions of those terms would be stated in the guidance.

Mr. Tano stated that, as EPA reviews risk factors associated with toxic substances, the successes and failures of reduction efforts can be measured.

Mr. George Smalley, Manager, Constituency and Community Relations, Equiva Services LLC, served as proxy for Ms. Clydia Cukendall, JC Penney and member of the Air and Water Subcommittee of the NEJAC, asked what sources of funding are available to local municipalities for the replacement of diesel buses with buses that run on alternative fuels, an action recommended in the guidance. Ms. Craig responded that EPA currently does not have grant money available for that or other activities described in the guidance. She emphasized that good incentives are the key to making the voluntary program work. Ms. Marianne Yamaguchi, Director, Santa Monica Bay Restoration Project and member of the Air and Water Subcommittee of the NEJAC, added that resources are the greatest incentive. She suggested that pilot studies be used to "kickstart" the program, technical assistance training be provided to governments on implementing the program, and that efforts be made in direct outreach to specific communities that are interested in the program. Ms. Nelson asked that EPA consider encouraging the pooling of the resources of various government programs, for example, through Agency partnerships. Mr. Fields agreed that the suggestions made by the members of the subcommittee were valuable.

Ms. Ramos commented that most of the pollution in affected communities likely originates in industries that probably would not participate in such programs. Mr. John Seitz, Director, EPA OAR at Research Triangle Park, responded that he is encouraged by the positive outcome of the 3350 program, which was the precursor of the Toxic Release Inventory (TRI) voluntary reporting program. Mr. Leonard Robinson, TAMCO and member of the Air and Water Subcommittee of the NEJAC, expressed agreement with Mr. Seitz.

Referring to local efforts to develop goals and measure progress, Ms. Eileen Gauna, Professor of Law, Southwestern University of Law, asked that more guidance be provided to overburdened areas that may need more aggressive strategies for reducing levels of toxics than other communities. Mr. Fields agreed that areas that are overburdened may require more aggressive plans.

Ms. Wood stated that she understood the objective of examining existing statutes and enforcing environmental justice elements in those statutes. However, she questioned the applicability of the guidance to any particular region; it would be "in the eye of the beholder" or the resident who lives in an area, she said, whether his or her community is

overburdened. Ms. Wood added that perhaps EPA should focus the guidance on assessing the relative burden of pollution in the communities.

Ms. Miller-Travis commented on the retrofitting of diesel engines in New York City. She reported that she had worked with EPA Region 2 and the state of New York to encourage use of alternative fuels by making public funding available. However, she explained, the Metropolitan Transportation Authority (MTA) had blocked their progress. She said that she would like to use regulatory tools to bring MTA to the table, but does not wish to create incentives to help that agency take an action it had failed in the past to take to comply with the law. Referring to the pilot studies as suggested by Ms. Yamaguchi, Ms. Miller-Travis also acknowledged that it is difficult to find a source of funding, but financial help should not be provided to MTA to take an action that should be required of it. The money should be directed toward implementation of innovative technologies, she suggested.

To clarify the issue, Ms. Craig stated that the guidance and financial support are not intended to help industries or municipal agencies comply with existing laws. She said that they are meant to encourage voluntary efforts to “go above and beyond” existing regulations, adding that compliance with existing laws is assumed.

Ms. Eady said that her state had used provisions of the National Environmental Policy Act (NEPA) to prompt the transit authority to use alternative fuels.

Ms. Minerva addressed the issue of voluntary rather than regulatory programs. She presented the example of EPA OW’s total maximum daily loads (TMDL) program, which asks states to identify water bodies that do not meet water quality standards. She explained that EPA OW envisioned that, as states identified their impaired water bodies, they would take regulatory steps to ensure that the water bodies meet water quality standards and take additional voluntary steps to manage future growth in neighboring communities. She stated that regulatory compliance and voluntary efforts should work together.

Mr. Wilson reported that while EPA laboratory reports may indicate that water quality in an area meets the maximum contaminant level (MCL), he had noticed during his inspections of drinking-water supplies in various Georgia counties that the results are contradictory. He said that he had been told by a technician for a drinking water unit that the water

was contaminated, but the concentrations of the contaminants were not high enough to be considered a problem. Yet, an African American woman in that same community drew water from the faucet that bubbled in her glass. Ms. Minerva responded that MCLs and TMDLs fall under different EPA OW programs. She and Mr. Wilson agreed to discuss the issue further after the subcommittee meeting.

Ms. Minerva stated the EPA OW would be interested in helping communities conduct a pilot study. However, she acknowledged that funding is an issue. She added that her office’s incentives primarily would encourage early response to issues. Dr. Michel Gelobter, Graduate Department of Public Administration, Rutgers University and chair of the Air and Water Subcommittee of the NEJAC, asked about financial help through National Permit Discharge Elimination System (NPDES) or state revolving funds. Ms. Minerva responded that EPA had not given extensive consideration to the possible use of those sources.

Mr. Tano noted that there are similarities between the goals of the guidance and those of national and international standard-setting organizations, such as the International Standards Organization (ISO). He suggested that there should be link between the programs of such organizations and Federal procurement policies, through which a local government can become eligible for Federal procurement if it receives a form of “certification.” Mr. Fields said that that form of “voluntary coercion” would be considered as the draft guidance is revised.

5.0 SUMMARY OF PUBLIC DIALOGUE

When Ms. Miller-Travis opened the floor to public dialogue, the following comments were offered.

5.1 The Tri-State Environmental Council, Save Our Community (SOC), Inc.

Mr. Alonzo Spencer, Save Our Community, Inc. (SOC), told the members of the subcommittee about the Waste Technologies Industries (WTI) hazardous waste incinerator located in East Liverpool, Ohio. The incinerator accepts more than 200 mixed chemical wastes brought in by rail and truck, he said. Currently, the incinerator does not have a permit to operate, and the owners of the incinerator are seeking to renew the permit, charged Mr. Spencer.

SOC, he continued, had been struggling for more than 20 years against hazardous waste facilities. WTI had changed ownership three times, violating Ohio state law, he stated.

Ms. Terry Swearigen, SOC, then informed the members of the subcommittee that two children living in close proximity to the incinerator suffer from rare forms of eye cancer. Contamination from the incinerator is the suspected cause, she said. Ms. Swearigen then requested that the Waste and Facility Siting Subcommittee encourage the Administrator of EPA not to renew WTI's operating permit and asked that members of the subcommittee attend a hearing concerning the incinerator that was to be held in August 2000. Ms. Wood asked when the permit had expired. Ms. Swearigen responded that the permit became active in 1985 and expired in 1995. Ms. Miller-Travis asked Mr. Shapiro and Mr. Fields to investigate the issue of the permit. Mr. Shapiro stated his belief that EPA Region 5 currently was investigating the matter. Ms. Miller-Travis assured Mr. Spencer and Ms. Swearigen that the subcommittee would follow-up on all actions taken by EPA. In response to Ms. Swearigen's question whether the subcommittee could work with the ombudsman, Mr. Shapiro responded that it could. Ms. Miller-Travis then asked Mr. Shapiro to facilitate discussions with the ombudsman.

5.2 The Alabama African-American Environmental Justice Action Network and the Southern Organizing Committee for Economic and Social Justice

Ms. Ann Smith, Ashurst Bar/Smith Community Organization and Ms. Connie Tucker, Southern Organizing Committee for Economic and Social Justice and former member of the Waste and Facility Siting Subcommittee, spoke to the subcommittee about a landfill located in Tallapoosa County, Alabama. Garbage from 18 counties is dumped in the 30-acre unlined landfill, they reported. The landfill is located in a community that is 98 percent African American, Ms. Smith said, adding that EPA had not provided sufficient oversight of state programs. Ms. Smith submitted to the subcommittee a written statement describing various other sites in counties in Georgia, Alabama, and Louisiana that have concerns related to environmental justice. When Mr. Benjamin asked Ms. Smith what action she wished the subcommittee to take, Ms. Smith responded that she would like the subcommittee to launch an immediate investigation of sites regulated under RCRA in the state of Alabama, concentrating on both closed and

operating landfills. She also requested that the subcommittee recommend that EPA contact the U.S. Inspector General to conduct audits of the adequacy and performance of state programs funded by EPA.

Ms. Nelson asked Ms. Smith whether the landfill in Tallapoosa County, Alabama was open. Ms. Smith responded that the landfill currently was closed, but that an active effort was underway to obtain a permit for the facility.

Ms. Gross McDaniel noted that the requests made by Ms. Smith seemed very broad and asked for more specific requests. Ms. Smith responded that the requests were not very broad and reiterated her request that the subcommittee recommend that EPA inspect programs under RCRA conducted by states. Mr. Fields interjected that OSWER can work with EPA regions 4 and 6 to accumulate statistical information about compliance with RCRA permits and enforcement actions taken, with a focus on Alabama, Georgia, Mississippi, and Texas.

Ms. Tucker added that she would like the subcommittee to visit Louisiana and tour "Cancer Alley." Ms. Miller-Travis responded that the subcommittee could send a delegation as an immediate response.

5.3 Cleanup Standards on Nomans Island, Massachusetts

Mr. Jeff Day and Ms. Beverly Wright, Aquinnah Wamanoag Tribe, presented information about the lack of cleanup standards on Nomans Island, located in Weymouth, Massachusetts. While Nomans Island is part of the South Weymouth Naval Air Station, it was not included on the listing of the naval air stations on the NPL, they explained. The Massachusetts Department of Environmental Protection was able to persuade the U.S. Department of Defense (DoD) to conduct a limited removal of exposed unexploded ordnance (UXO) from the island, they continued. Mr. Day stated that the surface removal did not remove UXO embedded below the ground surface, below mean low tide, in cliff faces, in coastal ponds, or in wetlands. A study done by the Massachusetts Department of Public Health for the years 1987 through 1994 found that female residents of the town of Aquinnah (which includes all 540 acres of tribal trust lands) had a cancer rate that was 93 percent higher than the average rate for Massachusetts, he continued. Contamination from Nomans Island is the suspected cause, he said. The Aquinnah Wamanoag Tribe believes there is a correlation between the cancer

rates and carcinogenic materials known to be present on Nomans Island, he stated. The tribe would like EPA to conduct an investigation under the provisions of the Clean Water Act and the Clean Air Act, said Mr. Day.

Further, the Aquinnah Wamanoag Tribe would like the Waste and Facility Siting Subcommittee to support a recommendation that EPA intercede with DoD to urge that Nomans Island be cleaned up and to work with the Wamanoag Tribe in that process.

Ms. Miller-Travis compared the cleanup of Nomans Island with that of the island of Vieques, Puerto Rico. No cleanup standards have been set, she noted. Ms. Eady informed the subcommittee that only approximately one-third of all bombs on the island actually had exploded. Because of the habitat and wetlands on the island, the state of Massachusetts does not want to explode the remaining UXO, she continued. Further, she added, there is clear evidence that people are using the island. Institutional controls placed on the island are ineffective, she observed.

Ms. Miller-Travis proposed that the subcommittee draft a resolution recommending that EPA request cleanup by DoD. The resolution would be presented to the Executive Council of the NEJAC for consideration, she noted. She also recommended that the subcommittee continue its discussion with the Aquinnah Wamanoag Tribe and work with the Indigenous Peoples Subcommittee to address the issue.

6.0 SIGNIFICANT ACTION ITEMS

This section summarizes the significant action items adopted by the subcommittee.

The members of the subcommittee adopted the following action items:

- ✓ Continue to work with the WTS Work Group on the development of the draft status report, EPA's *Municipal Solid Waste Transfer Station Action Strategy*.
- ✓ Provide OSWER with points of contact for informing the subcommittee about OSWER's implementation of the BMPs presented in the draft report, *EPA's Municipal Solid Waste Transfer Station Action Strategy*.

- ✓ Discuss with EPA Office of Environmental Justice the development of a mechanism for involving all subcommittees, through a representative work group, in the ongoing discussion of the cumulative risk framework.
- ✓ Identify all actions taken by EPA Region 5 in response to community concerns about permitting issues related to the WTI incinerator in East Liverpool, Ohio.
- ✓ Recommend that EPA regions 4 and 6 develop and provide to the Alabama African-American Environmental Justice Action Network and the Southern Organizing Committee for Economic and Social Justice statistical information about compliance with permits and enforcement actions taken in those regions focusing on Alabama, Georgia, Mississippi, and Texas.
- ✓ Prepare for the approval of the Executive Council a resolution requesting that EPA intercede with DoD to urge that DoD cleanup Nomans Island, Massachusetts and work with the Wamanoag Tribe in that process.
- ✓ Recommend to the Executive Council that a resolution be developed to support the formation of a NEJAC work group to assist ATSDR and EPA in following public participation protocols pertinent to issues of environmental justice and to focus on bringing about resolution of issues of concern to the community of Mossville, Louisiana.

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MEETING SUMMARY

of the

**JOINT SESSION OF THE HEALTH AND RESEARCH AND THE
WASTE AND FACILITY SITING SUBCOMMITTEES**

of the

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

**May 25, 2000
ATLANTA, GEORGIA**

Meeting Summary Accepted By:

**Vernice Miller-Travis
Chair of Waste and Facility
Siting Subcommittee**



**Kent Benjamin
Office of Solid Waste and
Emergency Response
U.S. Environmental Protection
Agency
Designated Federal Official**

**Marinelle Payton
Chair of Health and Research
Subcommittee**

CHAPTER NINE
SUMMARY OF THE JOINT SESSION OF THE HEALTH AND RESEARCH
AND THE WASTE AND FACILITY SITING SUBCOMMITTEES

1.0 INTRODUCTION

The Health and Research Subcommittee and the Waste and Facility Siting Subcommittee of the NEJAC met in a joint session on the afternoon of Thursday, May 25, 2000, to discuss the exposure investigation of Mossville, Calcasieu Parish, Louisiana, conducted by the Agency for Toxic Substances and Disease Registry (ATSDR) in November 1999. Invited guests (stakeholders) participating in the joint session included representatives of Mossville Environmental Action Now (M.E.A.N.), GreenPeace International, the Louisiana Department of Health and Hospitals (LDHH), the Louisiana Department of Environmental Quality (LDEQ), the Louisiana Chemical Association (LCA), U.S. Environmental Protection Agency (EPA) Region 6, and ATSDR. Exhibit 9-1 presents a list of the stakeholders who attended the meeting and participated in the discussion.

This chapter, which provides a summary of the deliberations of the joint session is organized in four sections, including this *Introduction*. Section 2.0, *Remarks*, presents summaries of the remarks offered by various speakers. Section 3.0, *Presentations*, summarizes the presentations on Mossville. Section 4.0, *Question and Answer Period*, summarizes the questions by the members of the subcommittee and the responses received.

2.0 REMARKS

Mr. Barry Hill, Director, EPA Office of Environmental Justice (OEJ), and Mr. Kent Benjamin, Environmental Justice Coordinator, EPA Outreach and Special Projects Staff (OSPS), Office of Solid Waste and Emergency Response (OSWER) and Designated Federal Official (DFO) of the Waste and Facility Siting Subcommittee of the NEJAC, served as facilitators for the joint session. Mr. Benjamin served as the DFO.

Mr. Hill opened the joint session by explaining that the purpose of the session was to allow the members of the subcommittee to gather from stakeholders information about the Mossville exposure investigation report so that the NEJAC would be able to identify a meaningful approach to addressing the environmental justice issues related to the investigation and make appropriate recommendations to EPA.

Exhibit 9-1

**JOINT SESSION OF THE HEALTH AND
RESEARCH AND THE WASTE AND FACILITY
SITING SUBCOMMITTEES**

**Stakeholders
Who Attended the Joint Session
May 25, 2000**

Mr. Edgar Mouton and Ms. Dorothy Felix
Mossville Environmental Action Now

Dr. Pat Costner and Mr. Damu Smith
GreenPeace International

Mr. Jerry Clifford and Mr. Gregg Cooke
U.S. Environmental Protection Agency Region 6

Dr. Henry Falk, Dr. Ken Orloff, and Dr. Reuben Warren
Agency for Toxic Substances and Disease Registry

Dr. Joseph Sejud and Ms. Dianne Dugas
Louisiana Department of Health and Hospitals

Mr. Edward Flynn
Louisiana Chemical Association

Mr. Benjamin reviewed the agenda of the joint session and urged participants to adhere to the time schedule set forth in the agenda. He told the audience that the joint session would unfold as a discussion between the NEJAC and the panelists that had been invited to address the subcommittees. He reminded the audience that the public was invited to observe the proceedings, but that observers would not be permitted to participate in the discussion.

Dr. Marinelle Payton, Environmental-Occupational Medicine, School of Public Health, Harvard University Medical School and chair of the Health and Research Subcommittee of the NEJAC, welcomed the stakeholders to the joint session. She noted that the joint session had been organized in response to a request by Mr. Damu Smith, Campaigner, GreenPeace International, that the Health and Research Subcommittee review and consider the Mossville exposure investigation. Dr. Payton reiterated that the purpose of the joint session was to allow the members of the two subcommittees and the stakeholders the opportunity to discuss the Mossville exposure investigation report.

Ms. Vernice Miller-Travis, Executive Director, Partnership for Sustainable Brownfields Redevelopment and chair of the Waste and Facility Siting Subcommittee of the NEJAC, noted that, since 1996, the Waste and Facility Siting Subcommittee had had discussions with representatives of M.E.A.N. and residents of Lake Charles and Calcasieu Parish, Louisiana that are formally on the record through public comment periods of the NEJAC. Continuing, she stated that the members of the community had asked the subcommittee for support and intervention. She emphasized that the Waste and Facility Siting Subcommittee viewed the joint session as a major step forward in the effort of the subcommittee to respond proactively on behalf of the NEJAC to the environmental justice issues that have been brought to that body's attention by members of the affected communities over the past four years.

Mr. Jerry Clifford, Deputy Regional Administrator, EPA Region 6, began the presentations by providing a geographical description and background of the community of Mossville. Mossville, he reported, is located in Calcasieu Parish in the southwest corner of Louisiana. He explained that, in 1997, the population of Calcasieu Parish was approximately 180,000, according to records of the Bureau of the Census, and that the parish is some 1,000 square miles in area. The community of Mossville, he continued, has a population of approximately 900 to 1,000. Mr. Clifford noted that Mossville is an unincorporated portion of Calcasieu Parish and is located between the communities of Westlake and Sulphur, Louisiana.

Mr. Clifford explained that there are more than 800 regulated facilities in Calcasieu Parish, noting that some 200 of those facilities are relatively large industrial operations. He stated that the industries in the area include refineries; petrochemical facilities that produce industrial organic chemicals; and chemical preparation facilities.

Mr. Clifford stated that, according to Toxics Release Inventory (TRI) data released by EPA in March 1999, roughly 13,000 tons of volatile organic compounds (VOC) are emitted each year by industrial facilities in the Mossville area. More than 13 million tons of hazardous waste are generated in Calcasieu Parish. According to EPA's Emergency Response Notification System, accidental releases from industrial facilities result in the discharge of more than 500,000 pounds per year of hazardous waste into the environment, Mr. Clifford stated.

Mr. Clifford stated that significant chemical contamination of the Calcasieu Estuary has occurred. The most extensive release to the estuary, he continued, was a five- to six-million-gallon spill of ethylene dichloride into the estuary between Lake Charles and Prien Lake, located south of Mossville. Mr. Clifford stated that fish advisories have been issued for the Calcasieu Estuary because of health considerations related to human ingestion of bioaccumulated contaminants in fish and shellfish harvested by local and commercial fishermen in the estuary and waterways connected to it.

Mr. Clifford then stated that seven facilities regulated under the Resource Conservation and Recovery Act (RCRA) are subject to corrective action. He noted that there was groundwater contamination at each of those seven facilities. He added that a private party had just begun cleanup at North Ryan Superfund Site, a former coal gassification facility located in the community of North Ryan. He stated that coal tar was the primary contaminant of concern at the North Ryan site.

3.0 PRESENTATIONS

This section summarizes presentations on Mossville.

3.1 Review of Findings Presented in the Exposure Investigation: Calcasieu Estuary (Mossville), Louisiana

Mr. Edgar Mouton, President, M.E.A.N., expressed his appreciation to the members of the two subcommittees for the opportunity to represent his community by voicing the environmental problems and needs of his community. He introduced Dr. Pat Costner, Senior Scientist, GreenPeace International, who provided a brief overview of her interpretation of the findings in the Mossville exposure investigation, which identified the presence of contamination with dioxins and polychlorinated biphenyls (PCB) in the community of Mossville.

Dr. Costner stated that the information collected by ATSDR during the exposure investigation supported the following conclusions:

- The average concentration of dioxins and PCBs found in the blood of 28 residents of Mossville is more than three times higher than the average background level in the general population, as represented by ATSDR's comparison group.
- On the basis of EPA's recent estimate of cancer risks caused by background dioxin exposure of the general population at 1 in 100 persons to 1

in 1,000 persons, the cancer risks of Mossville residents may average more than three times higher than the risk among the general population.

- The dioxin levels detected in blood samples from residents of Mossville indicate that the body burdens of the residents are at levels consistent with the occurrence of adverse health effects, such as increased susceptibility to viral disease and decreased sperm count. The adverse health effects have been documented in studies of several species of laboratory animals.
- The profile of relative concentrations of the seventeen most toxic dioxin congeners in blood samples from residents of Mossville differed substantially from that for ATSDR's comparison group, suggesting that one or more local sources of dioxin are contributing to the elevated blood dioxin levels in residents of Mossville.
- The blood levels of PCB congeners in residents of Mossville are an average of 2.8 times higher than the average levels found in ATSDR's comparison group. Further, in a manner similar to that for unique dioxin profile detected in blood samples, the unique profile of the congener types and concentrations of PCBs suggests that one or more local sources of PCBs are contributing to the elevated blood PCB levels in residents of Mossville.
- The total concentrations of dioxin and the total concentrations of PCBs detected in blood samples of the residents of Mossville appear to be independent of one another, suggesting that the chemicals may be released by different sources.
- Only one breast milk sample was collected and analyzed for dioxin and PCBs. The total concentration of dioxins and the concentrations of PCB congeners detected in the breast milk sample were 30 percent higher than the average concentration in the general population of nursing mothers in the United States from 1995 to 1997. That result supports the conclusion that some infants living in Mossville may experience higher prenatal and postnatal exposure to dioxins than the average infant in the United States.
- Two eggs from chickens raised by residents of Mossville carried concentrations of dioxins that were some 50 percent higher than concentrations measured in a supermarket egg

and 23 percent higher than concentrations found in eggs collected in an uncontaminated area in the state of California.

- Concentrations of dioxins detected in soil samples from the yards of three residences in Mossville were an average of 17 times higher than concentrations detected in rural soil samples and an average of 1.5 times higher than concentrations detected in urban soils from various locations in the United States and Canada.

Dr. Costner stated that, in general, GreenPeace supports the recommendations made by ATSDR as presented in the ATSDR exposure investigation report, with the added provision that PCBs and other dioxin-like chemicals be included in future investigation activities. Exhibit 9-2 presents recommendations set forth by ATSDR in the exposure investigation report.

Dr. Costner further requested that ATSDR, EPA, LDEQ, and other relevant entities take the following actions, either working with the Mossville Environmental Justice Work Group (coordinated by ATSDR) or as a separate initiative, such as a collaborative, interagency emergency effort taken in consultation with the residents of Mossville. The additional actions recommended, she stated, are:

- Identify and eliminate local sources of dioxin and dioxin-like contaminants that are detected in the blood and breast milk of residents of Mossville, in the soils at their residences, and in their common food sources.
- As sources of dioxins and dioxin-like contaminants are identified and eliminated, conduct all appropriate actions to reduce exposure from any remaining reservoir sources, such as soils and sediment. Appropriate actions include full remediation of reservoir sources to provide protection and preservation of the local cultural and historical practices of home gardening, animal husbandry, hunting, and fishing.
- Relocate all residents who desire to move to areas that are free of significant threats of contamination by toxic substances.
- Issue a moratorium on new permits for activities or enterprises that release dioxins, dioxin-like chemicals, and other toxic chemicals into the environment in or near Mossville.

Exhibit 9-2

**RECOMMENDATIONS PRESENTED BY THE
AGENCY FOR TOXIC SUBSTANCES AND
DISEASE REGISTRY IN THE 1999 EXPOSURE
INVESTIGATION: CALCASIEU ESTUARY**

In November 1999, the Agency for Toxic Substances and Disease Registry (ATSDR) released a report on the investigation of dioxin contamination in Mossville, Calcasieu Parish, Louisiana. The purpose of the investigation was to determine whether there was sufficient evidence of increased exposure to dioxins among the residents of Mossville.

In the report, ATSDR set forth the following recommendations:

- Evaluate potential pathways for human exposure from environmental and dietary sources.
- Reduce human exposures to dioxin from the significant exposure pathways identified.
- Further characterize the extent of dioxin exposure in the community.
- Evaluate strategies to assess past exposures to dioxin.
- Examine indicators of health status for the community including statistics on the incidence of cancer.

Source: U.S. Department of Health and Human Services, ATSDR. 1999. Health Consultation (Exposure Investigation): Calcasieu Estuary (AKA Mossville), Lake Charles, Calcasieu Parish, Louisiana. CERCLIS No. LA002368173.

In closing, Dr. Costner stated that the elimination of dioxins and dioxin-like chemicals, such as PCBs, will result in both positive and negative economic effects in Mossville and nearby communities. She urged that Federal and state agencies mitigate the potentially negative economic effects by including transition planning processes as an integral component of any dioxin elimination strategy.

Mr. Mouton communicated the frustration felt by the residents of Mossville that little action has been taken to mitigate the environmental crisis taking place in their community. He requested that the residents of Mossville receive a relocation package and asked that a health center be established in the community to provide health consultation and treatment. Mr. Mouton stated that the members of

M.E.A.N. believed that existing evidence is sufficient to justify more aggressive action by the Federal and state agencies on behalf of his community.

Ms. Dorothy Felix, Vice President, M.E.A.N., also communicated her frustration with the lack of progress by Federal and state agencies in actively addressing environmental health issues affecting Mossville. She then described for the members of the subcommittees a pattern of stall tactics, accusations, and insults directed at her organization by the Federal and state agencies they had approached for assistance.

Referring to the issue raised in the Mossville exposure investigation report related to whether the elevated levels of dioxins found in residents of Mossville are the result of past or current exposures, Ms. Felix stated, "We all know that it is both. My grandparents were contaminated, and so were my parents. I am still being contaminated, and so are my children and my grandchildren."

Ms. Felix urged that Federal and state agencies stop all insults, insinuations, and stall tactics and take an active role in the cleanup of Mossville.

Ms. Felix identified the following requests that M.E.A.N. wished to make of Federal and state agencies:

- Request that LDEQ and EPA assist the residents of Mossville in securing a relocation action.
- Request that ATSDR continue the Mossville Environmental Justice Work Group process.
- Request that ATSDR and LDHH establish an environmental health clinic and provide health services in Mossville.
- Request that LDEQ and EPA deny all new permits to facilities that have been proven to be the worst polluters of the community of Mossville until the facilities have installed the appropriate equipment to prevent accidental releases.
- Request that LDEQ and EPA require that polluting facilities install real-time air pollution monitors.
- Request that all agencies advise M.E.A.N. as soon as possible of their plans for addressing the specific issues outlined by M.E.A.N. (Ms. Felix added that such communications should take place in personal meetings, rather than by telephone conference calls.)

In closing, Ms. Felix stated that M.E.A.N. will continue asking for help until the organization achieves environmental justice and respect for the civil rights of the people of Mossville.

3.2 Report on the Activities of the U.S. Environmental Protection Agency Region 6 in the Calcasieu Estuary

Mr. Clifford reviewed the resources and activities of EPA Region 6 that are focused on addressing various environmental and health issues in the Calcasieu Estuary, including activities performed in conjunction with other agencies. He stated that, as a result of presentations made by residents of Calcasieu Parish at the December 1997 meeting of the NEJAC held in Durham, North Carolina, Mr. Sam Coleman, Director, Compliance Assurance and Enforcement Division, EPA Region 6, had increased EPA's enforcement activities in the Calcasieu Estuary area. Mr. Clifford stated that EPA had significantly increased the number of inspections it performed at facilities in Calcasieu Parish each year. He noted that many of the EPA inspections are multimedia inspections that include air, soil, and water sampling. He pointed out that several enforcement actions have resulted from the identification of violations during the EPA inspections. Mr. Clifford stated that LDEQ also had increased the number of state inspections performed each year, as well as the number of enforcement activities.

Mr. Clifford stated that he had attended the May 1998 meeting of the NEJAC in Oakland, California, where he listened to a presentation made to the Waste and Facility Siting Subcommittee by residents of Calcasieu Parish about flaring and accidental releases by industrial facilities in their community. He stated that the presentation had prompted him to reevaluate the resources and activities that EPA Region 6 directed at Calcasieu Parish. As a result, EPA Region 6 stepped up its activities considerably, he stated. He then listed activities EPA had implemented since the May 1998 meeting of the NEJAC, including:

- Quarterly meetings are held between EPA and residents and community groups in the area to discuss issues brought to the attention of EPA by the community. ATSDR and LDEQ often participate in the quarterly meetings with the community.
- The quality of the drinking water provided by the Mossville Public Water System was evaluated. Samples of the drinking water were analyzed for

dioxin and VOCs. No contaminants were detected at concentrations above maximum contaminant levels (MCL) established under the Safe Drinking Water Act (SDWA).

- EPA and LDHH performed a comprehensive performance evaluation (CPE) of the Mossville Public Water System, the first CPE of a groundwater system in the country. Although the water system was found to be in compliance with SWDA standards, the CPE identified some factors that limit performance. The operator of the water system immediately began to correct the limiting factors.
- A remedial investigation and feasibility study (RI/FS) of the Calcasieu Estuary was performed. Working closely with LDEQ; the Louisiana Department of Natural Resources (LDNR); the U.S. Geological Survey (USGS) of the U.S. Department of the Interior (DOI); and the National Oceanic and Atmospheric Administration (NOAA) of the U.S. Department of Commerce (DOC); EPA is conducting an investigation of contamination of sediments in the estuary and the potential for adverse effects on human health and the environment resulting from contamination. Sampling and analysis for dioxin in fish tissue will be added to the investigation in the future. The estimated cost of the RI/FS of Calcasieu Estuary is \$6 million.
- Air quality monitoring has been increased. EPA's Enforcement Division has implemented periodic trace atmospheric gas analyzer (TAGA) mobile air monitoring to evaluate the presence and concentrations of selected hazardous and carcinogenic chemicals in Calcasieu Parish. LDEQ has established two additional air toxics monitoring sites at locations determined through examination of air quality information collected during the TAGA monitoring.

In addition, Mr. Clifford stated, EPA submitted to ATSDR blood dioxin data that had been presented to EPA at a public meeting in 1998. EPA urged ATSDR to conduct its own evaluation of exposure to dioxins, resulting in the conduct of the Mossville exposure investigation by ATSDR in 1999.

3.3 Report on the Exposure Investigation: Calcasieu Estuary (Mossville), Louisiana

Dr. Henry Falk, Assistant Administrator, ATSDR, thanked the representatives of M.E.A.N. and GreenPeace for their comments and acknowledged their requests. Dr. Falk asked Dr. Ken Orloff,

ATSDR, to present an overview of the Mossville exposure investigation and comment on the results of the investigation. He explained that Dr. Orloff is a senior toxicologist at ATSDR and was involved in the Mossville study.

Dr. Orloff stated that EPA Region 6 had presented blood dioxin data to ATSDR in the fall of 1998. He explained that the blood dioxin data, which had been collected by a law firm located in the Mossville area, consisted of results of laboratory analyses of blood samples collected from 11 residents of Mossville. He stated that ATSDR evaluated those results and determined that dioxin levels were elevated in three of the blood samples. ATSDR determined that the situation warranted further investigation, he said.

Continuing, Dr. Orloff stated that representatives of ATSDR and LDHH traveled to Mossville to meet with representatives of M.E.A.N., the Calcasieu League for Environmental Action Now (C.L.E.A.N.), other residents of Mossville, and other representatives of community groups in Calcasieu Parish. He said that the representatives of ATSDR and LDHH met with the individuals whose blood dioxin results had been high and with their families. As a result of those discussions, ATSDR decided that there was sufficient evidence to warrant an exposure investigation, he said.

Dr. Orloff stated that ATSDR focused the exposure investigation on the community of Mossville because Mossville is a relatively small, geographically defined area, attributes helpful in constructing a quantitative study or investigation. The person whom the dioxin tests determined had the highest blood dioxin level among the individuals tested was a resident of Mossville, he said.

ATSDR solicited the participation of residents of Mossville and asked for their assistance in selecting appropriate individuals to participate in the study, continued Dr. Orloff. He said that the criteria applied in selecting participants were that the participants be adults and long-term residents of Mossville. ATSDR also asked that the community screen out residents who might have experienced occupational exposure, he added. Dr. Orloff stated that the residents of Mossville submitted a list of 28 individuals, all of whom subsequently were included in the study.

Continuing, Dr. Orloff explained that the blood samples were collected and delivered to the National Center for Environmental Health Laboratory, the Centers for Disease Control and Prevention's (CDCP) laboratory in Atlanta, Georgia. When ATSDR received the laboratory results,

representatives of ATSDR returned to Mossville, where they conducted one-on-one consultations with all the participants in the exposure investigation, he said. He stated that representatives of ATSDR explained the results to the participants and answered their questions. At that time, ATSDR also extended to each participant an opportunity to meet with an independent board-certified physician from the Association of Occupational and Environmental Health Clinics to review the participant's medical records and provide medical consultation, he continued. The medical consultations were conducted in the summer of 1999, he said.

Dr. Orloff explained that, at the time ATSDR released the results to the exposure investigation participants, the agency also issued a draft exposure investigation report for a 60-day public comment period. All public comments that were received by ATSDR were addressed individually and appropriate changes were incorporated into the final report in response to those comments. The final report was released in November 1999, he said.

Dr. Orloff then summarized the salient findings of the report, stating that ATSDR agrees with many of the remarks offered by Ms. Costner in her review of the results. Specifically, ATSDR considered 17 of the 28 participants in the study to have significantly elevated blood dioxin levels. The term "significantly elevated" means that the blood dioxin levels of the individuals exceeded a ninety-fifth percentile prediction level, compared with ATSDR's comparison population, Dr. Orloff explained.

Dr. Orloff then stated that ATSDR also agrees that the profiles of dioxin congeners in the individuals tested were different than those in the ATSDR's comparison population. Therefore, there are qualitative, as well as quantitative, differences in the dioxin levels in certain individuals in the Mossville community, he noted.

Regarding future activities in Mossville, Dr. Orloff commented that the primary issue for ATSDR is to determine whether exposure to contaminants is ongoing. Commenting on data from the Mossville exposure investigation, he stated that one significant finding of the investigation was that all the individuals exhibiting the highest blood dioxin levels were 47 years of age or older. That finding, he said, could suggest that exposure of those individuals to dioxins occurred in the past rather than recently. Continuing, he stated that it is important to conduct further testing to determine whether sources of dioxin contamination remain present. Dr. Orloff noted again that LDEQ currently was conducting

additional testing for dioxin in various environmental media to determine whether there are current sources of dioxin contamination in Mossville and nearby communities.

In closing, Dr. Orloff commented that ATSDR had made recommendations for addressing the health concerns of the community. He informed the participants that the recommendations were included in the Mossville exposure investigation report.

After thanking Dr. Orloff, Dr. Falk stressed to the participants that the Mossville exposure investigation was a concrete step on the path to identifying and defining the nature and extent of environmental health issues in Mossville. He acknowledged, however, that the exposure investigation was a limited study because the investigation was based on a small test population (28 persons) and a limited number of samples directed at determining pathways of dioxin exposure, such as breast milk or homegrown food sources like vegetables and eggs.

Dr. Falk stated that further sampling should be conducted in order to determine (1) whether other residents of Calcasieu Parish have elevated blood dioxin levels, (2) whether ongoing exposures to dioxin are occurring, and (3) what are the pathways for exposure to dioxin. He acknowledged that the next steps should be designed in consultation with the residents of Mossville. He also noted that ATSDR is interested in linking its efforts with the efforts of EPA.

In closing, Dr. Falk stated that he also looked forward to improvements in the communication and consultation processes between ATSDR and the residents of Mossville and other community groups in Calcasieu Parish. ATSDR welcomes the suggestions for improving those processes, he said.

3.4 Report from the Louisiana Department of Health and Hospitals

Dr. Joseph Sejud, Medical Consultant, Office of Public Health, LDHH, explained that the role of LDHH in responding to environmental data, such as the data presented in the Mossville exposure investigation, is (1) to determine what the findings suggest about public health and (2) to identify the appropriate public health response.

Dr. Sejud stated that, throughout the progress of the Mossville case, LDHH had grappled with the problem of decision making under conditions of uncertainty and dealing with scientific issues that are at the forefront of environmental science and toxicology.

When attempting to assess the meaning of the findings presented in the exposure investigation, he explained, LDHH was responsible for considering, with great prudence, the following questions and issues related to the validity of the exposure investigation results:

- The sample size considered in the exposure investigation was limited; therefore, do the data presented in the exposure investigation report represent Mossville or Calcasieu Parish at large?
- Are health benchmarks established in scientific literature comparable to the dioxin data presented in the exposure investigation report? Dr. Sejud explained that LDHH had attempted to compare the values in the exposure investigation with established health benchmark values for dioxin. However, dioxin levels in humans increase with age because of their bioaccumulative nature, he explained, and there are age differences between the 28 individuals sampled in Mossville and the comparison population. Further, he said, the benchmarks were based largely on animal research. He stated that it is not the prerogative of LDHH to act solely on the basis of animal research.
- Are the exposures to dioxin ongoing or historical, or both?

Dr. Sejud stated that LDHH had been trying to navigate through the uncertainty to plan its response to the environmental health issues in Mossville and Calcasieu Parish. He added that he also shared the frustration voiced by other stakeholders with the “glacial pace” of process thus far. He then expressed his hope that the presence of LDHH at the joint session would effect some change in that regard.

Dr. Sejud stated that LDHH had planned a public health response to the issues set forth in the Mossville exposure investigation, adding that some activities already were underway. He stated that LDHH was responding through the following actions:

- Conducting a review of health statistics for cancer and other health outcomes in Calcasieu Parish.
- Performing a community health needs assessment in the Mossville community.

- Identifying a process for facilitating access to health care in Mossville and the Calcasieu area under the Children's Health Insurance Program (CHIP) and the Medicaid Match Program in Louisiana.

Referring to the request of Mr. Mouton, Ms. Felix, and Ms. Costner for the establishment of a health clinic in the Mossville community, Dr. Sejud stated that no state funds were available to support the establishment of a new health center. He explained that the state of Louisiana was projecting a \$3 million deficit for the next fiscal year. Continuing, Dr. Sejud stated that LDHH was the largest contributor to the budget deficit and further that the largest cost to LDHH was that for the provision of health care services through the department's Medicaid Match Program and the CHIP program.

3.5 Communication from the Louisiana Department of Environmental Quality

Ms. Miller-Travis read aloud a letter from Mr. J. Dale Givens, Secretary, LDEQ. The letter was dated May 25, 2000, and read as follows:

"Dear Ms. Miller-Travis: On behalf of the Louisiana Department of Environmental Quality I wish to offer our regrets for not being able to attend this conference. The Louisiana legislature is currently in session and there are numerous matters that require that we be present during this session.

I would like to note that we have been and are currently working with our state and Federal counterparts, as well as all of the stakeholders, to address the environmental and health concerns expressed by the communities in Calcasieu Parish.

We hope that you have a successful conference and look forward to working with you in the future. Sincerely, J. Dale Givens, Secretary, State of Louisiana Department of Environmental Quality."

3.6 Report from the Louisiana Chemical Association

Mr. Edward Flynn, Director, Health and Safety Affairs, LCA, thanked the members of the two subcommittees and the stakeholders for the opportunity to represent the chemical manufacturers of Louisiana at the session. Mr. Flynn explained that LCA is a nonprofit corporation that represents 70 chemical manufacturers operating at 105 sites throughout the state of Louisiana. He added that he was attending the joint session specifically on behalf

of the Lake Charles Area Industry Alliance (LCAIA), an alliance of 22 LCA companies that operate in Calcasieu Parish.

Mr. Flynn commented that the LCA, as well as the Chlorine Chemistry Council, had submitted to ATSDR comments on the findings presented in the exposure investigation report. Those comments, he said, included:

- The Mossville exposure investigation did not conclude that blood dioxin levels identified through the exposure investigation indeed were elevated, relative to the national reference ranges.
- The Mossville exposure investigation did not address possible historical or ongoing sources of exposure to dioxin.
- The blood dioxin levels of residents of Mossville did not appear to be unusual, with some dioxin results falling above and some below the ATSDR reference values. Further, he said, the dioxin results set forth in the exposure investigation report displayed a normal profile of dioxin congeners. He noted that the profiles for dioxin congeners normally observed in the production of vinyl chloride and polyvinyl chloride (PVC) and in PVC combustion are dissimilar from the profile exhibited in the blood samples tested for the Mossville exposure investigation.
- Although the findings were based on a limited number of samples, the failure of the egg or the soil samples to show significant levels of dioxin suggests that current exposures to dioxins are not elevated.
- Extensive environmental sampling of food sources and media in the area and in nearby areas should be conducted.

Mr. Flynn stated that additional sampling activities should be focused first on determining whether blood dioxin levels in residents of Mossville actually are elevated.

Continuing, Mr. Flynn stated that representative reference values for the population of the United States, including age-dependent reference values for dioxin levels, are not available. Therefore, all stakeholders should support the efforts of the CDCP to collect dioxin serum samples as part of the National Health and Nutrition Examination Study (NHANES). He informed the participants that such data were expected to be available in fall 2000 and

stated that they should provide baseline reference values appropriate for comparison with the Mossville data.

Mr. Flynn then suggested that future sampling should include samples of air, soil, and food sources to complement the blood dioxin measurements. Further, he continued, the congener profiles displayed in all samples should be compared with those identified through the EPA and U.S. Department of Agriculture (USDA) surveys of beef, pork, poultry, and fish and with the profiles displayed in industrial emissions.

Mr. Flynn also suggested that additional information about the health and lifestyles of the individuals tested should be collected and evaluated further. Such information should include job and residential history so that other potential sources of exposure to dioxin can be identified.

In closing, Mr. Flynn stated that the chemical industry in Louisiana does hope to expand in the future, but only with the support of the public. He noted that the members of LCA are not "foreign, faceless entities" but are Louisiana men and women who live in Addis, Romeville, Convent, Plaquemine, Sulphur, and Westlake, Louisiana. He stressed that LCA has a genuine desire to improve conditions throughout the state.

3.7 Additional Comments of Representatives of GreenPeace, Mossville Environmental Action Now, and the Calcasieu League for Environmental Action Now

Mr. Damu Smith, GreenPeace International, argued that Federal and state agencies repeatedly have undermined and ignored the efforts and requests of M.E.A.N. and other community groups in Calcasieu Parish. As an example, he stated, ATSDR repeatedly has ignored the requests made by M.E.A.N. that the process for establishing and conducting the work of the Mossville Environmental Justice Working Group, a working group established by ATSDR, be developed in consultation with representatives of M.E.A.N. and residents of Mossville and that members of affected communities be included as members of the working group.

Referring to statements made by Mr. Clifford about the quality of drinking water in Mossville, Ms. Pat Hartman, M.E.A.N., said that the Mossville Public Water System, the public water system evaluated by EPA, was established only after it was determined that the well water the residents had been drinking was contaminated.

Ms. Monique Harden, Attorney/Community Liaison Director, Earthjustice Legal Defense Fund, stated that Dr. Falk had failed to repeat a statement in his presentation that he had made previously in a community meeting in Mossville. She said that Dr. Falk had acknowledged at the community meeting that the response of the agencies to the Mossville community had been very poor. Ms. Harden also said that Dr. Sejud had neglected to mention that budget shortfalls at LDHH did not prevent that department from writing letters to the local press in which the department criticized the community of Mossville and attacked a consultant to ATSDR who concluded that local sources likely are responsible for the high blood dioxin levels observed in residents of Mossville.

Continuing, Ms. Harden stated that the representatives of the agencies also had failed to mention in their individual presentations a health survey performed by Dr. Marvin Legator, Director, Toxics Assistance Project, University of Texas Medical Branch, Galveston, Texas. She stated that the health survey had identified numerous illnesses that are consistent with environmental exposure to toxic chemicals among members of the Mossville community. She added that the study suggests that dioxin blood levels in residents of Mossville are elevated.

4.0 QUESTION AND ANSWER PERIOD

After the presentations by stakeholders, Mr. Hill initiated a question-and-answer period to allow the members of the subcommittees to question the stakeholders. Mr. Hill suggested that the members of the subcommittees begin with questions related to the requests made by Dr. Costner about the future investigation of exposure to dioxin.

Mr. Hill began the question-and-answer period by asking Mr. Clifford what role EPA would play in addressing Dr. Costner's requests. Addressing the first three requests made by Dr. Costner, Mr. Clifford stated that next steps to be taken by EPA, ATSDR, LDEQ, and LDHH should be to work collaboratively, in consultation with M.E.A.N. and C.L.E.A.N. and other residents of Mossville and Calcasieu Parish, to establish a comprehensive environmental sampling plan to determine whether there are ongoing sources of exposure to dioxins and dioxin-like chemicals in Mossville and, if so, to expeditiously identify the primary sources of the exposures. Continuing, he stated that, if sources of exposure were identified, the third step would be to develop a plan for eliminating those sources. Dr. Falk stated that he concurred with the general plan recommended by

Mr. Clifford. He then expressed willingness on behalf of ATSDR to contribute to that process. He also stressed that the community of Mossville will be involved in the development of any plans to address the issues of concern. Mr. Hill then asked if Mr. Smith would be able to work with ATSDR and EPA to develop a strategy to address Dr. Costner's requests. Mr. Smith responded that he would work with the agencies; however, he requested that protocols be established to monitor how the agencies would coordinate their responses among themselves and how the agencies will communicate with the local communities. He stressed that protocols related to public participation will be fundamental to proceeding on these issues. Dr. Costner also wish to emphasize that it is important to make the distinction between sources of dioxin and pathways of exposure. For example, the results of fish sampling will suggest whether or not the ingestion of fish is an exposure pathway, but will not identify the source of such exposure, she said.

Mr. Melvin "Kip" Holden, Representative, Louisiana Legislature and member of the Waste and Facility Siting Subcommittee, asked why LDHH does not accept a correlation between test results of the effects of toxics on animals to effects of toxics on humans. Dr. Sejud explained that there is an interspecies variability in the toxicity of dioxin. He explained that LDHH does find correlations between the results of animal studies and toxicology in human species; however, the correlation related to dioxins is not complete.

Dr. Payton asked whether there was a plan for follow-up studies of the 28 persons included in the initial study. Dr. Falk responded that ATSDR had arranged to meet with each of the individuals who participated in the study to discuss the results. ATSDR also had arranged to provide medical consultation for each of the individuals, he said. He stated that ATSDR had not yet determined whether further tests would be performed on the same test individuals. He stressed that the issue should be discussed during the development of a strategy for further investigation. Dr. Payton commented that the questions of validity that affect the results presented in the initial study could be eliminated by performing a follow-up study of the same individuals.

Dr. Payton asked whether the ages of the persons included in the Mossville exposure investigation were age-adjusted for comparison with the average of the U.S. population. She commented that, if the dioxin levels presented in the exposure investigation report were age-adjusted, there should be no question of whether the higher dioxin levels in older test

individuals were a result of bioaccumulation with age. Dr. Payton also asked why children were not included in the initial study, stating that dioxin data from children could eliminate the question of whether the results indicated past or current exposures.

Addressing Dr. Payton's first question, Dr. Falk responded that there is no established national average of dioxin blood levels for the United States. He explained that the comparison values used in the exposure investigation were derived from a series of studies of comparison populations in the United States over the past few years and did not represent a national average. He added that those were simply the best data available for comparison. On the question of the testing of children to determine whether there are current sources of exposure to dioxin, Dr. Falk stated that he was not sure whether comparison data for children are available. He stressed that the issue should be discussed as a possibility during planning for future investigations.

Ms. Jane Stahl, Deputy Assistant Commissioner, Connecticut Department of Environmental Protection and member of the Health and Research Subcommittee of the NEJAC, asked the stakeholders whether there was an expected date for the establishment of a dioxin standard or action level. Mr. Clifford referred her question to Dr. Dwain Winters, EPA Region 6, who responded that EPA does not have plans to establish an ambient standard or action level for dioxin. He explained that the principal pathway of exposure is ingestion of food sources, rather than inhalation of ambient air or ingestion of water. Therefore, he continued, the establishment of a standard or action level is not the mechanism by which EPA usually would begin to address that type of pollutant.

Ms. Denise Feiber, Environmental Science and Engineering, Incorporated and member of the Waste and Facility Siting Subcommittee of the NEJAC, asked whether the communities involved could participate in the development of a sampling strategy and, if so, how such consultation could be managed efficiently. Dr. Falk responded that ATSDR would consult with the community in developing a sampling plan. Mr. Clifford referred the question to Ms. Pam Phillips, Deputy Director, Superfund Division, EPA Region 6, who stated that EPA had been actively involving the various communities in Calcasieu Parish in the development of the Agency's sampling plans. She explained that, before EPA conducted sediment sampling in the Calcasieu Estuary, the Agency held several community meetings and open houses. During those events, she continued, representatives of EPA discussed the draft approach

and considered comments from residents and community groups. Ms. Phillips stated that EPA pilot-tested the posting of the draft scope of work on EPA's Web site so that interested parties could download the document and provide EPA with comments. She stated that EPA plans to conduct a similar review process for the draft scope of work for ecological sampling that will begin in summer 2000. Ms. Phillips also stated that EPA plans to post the raw data from sampling on the EPA web site and to provide the data in electronic format on CD-ROM, upon request.

Ms. Miller-Travis stated that participants in the joint session had made many suggestions about actions that must be taken to address the environmental health issues in the Mossville area, but, she observed, the stakeholders still lacked a concise plan. She suggested that the stakeholders use the remaining time to formulate, at the least, a "skeleton" of a course of action to be taken after the meeting. Concurring, Mr. Hill asked Mr. Smith whether he and the representatives of M.E.A.N. and C.L.E.A.N. would be willing to remain after joint session to discuss the next steps directly with the Federal stakeholders. Mr. Smith, Dr. Costner, and the representatives of M.E.A.N. and C.L.E.A.N. also agreed to remain after the joint session.

Mr. Neftali Garcia Martinez, Environmental Scientist, Scientific and Technical Services and member of the Waste and Facility Siting Subcommittee of the NEJAC, asked whether any sampling of environmental media (air, water, and soil) in the Calcasieu Estuary had been completed. Mr. Clifford responded that sampling to evaluate sediments in Calcasieu Estuary began in December 1999. He explained that EPA expected the results to be available in mid-summer 2000. In addition, results of the first analyses of fish tissue should be available in July 2000, he said.

Mr. Martinez asked Mr. Clifford whether air sampling for dioxin had been performed. He also asked whether a study of the types of industries in the area and the types of raw materials used in their chemical processes, including combustion of hazardous wastes, was being performed. He suggested that such an inventory could identify possible sources of exposure to dioxin. Mr. Clifford responded that EPA currently was working with the state of Louisiana to install new toxic air monitors specifically to monitor dioxin in the Calcasieu Estuary. He noted that he expected the new monitors to be in place by the end of summer 2000. To the question about an inventory of types of facilities and raw materials used by facilities in the area, he responded that EPA collects

and maintains data on the types of chemicals emitted from permitted facilities in Calcasieu Parish.

Ms. Stahl asked Mr. Clifford whether EPA or LDEQ had assessed penalties for exceedances of the ambient air quality standards (AAQS) and, if so, whether the sums collected under those penalties had been directed back to the community. Mr. Clifford answered that the AAQS are state standards. Therefore, he said, EPA has no authority to assess penalties for violations of those standards, he said. He added that he was unaware whether LDEQ had assessed penalties for violations of AAQS by facilities in Calcasieu Parish, or whether LDEQ had directed sums collected under such penalties back to the communities. Continuing, Mr. Clifford stated that penalties had been assessed as part of enforcement actions taken by EPA and LDEQ. He commented that he expected that EPA and LDEQ would assess more penalties in the future, in light of the increased enforcement activity in the Calcasieu Estuary.

Mr. Clifford also stated that EPA has a supplemental environmental project (SEP) policy that allows EPA the flexibility to offset a portion of a penalty assessed against a facility if the facility chooses to contribute that portion at the local level, whether at the facility or in the community, to address a particular issue that has a nexus to the particular violation. Mr. Clifford noted that EPA had received some SEP proposals related to the penalties assessed in Louisiana. He added that EPA Region 6 had established an internal work group on SEPs to work with communities to identify a number of potential SEPs that could be presented to companies during such enforcement and settlement discussions.

Continuing, Mr. Clifford commented that the SEP policy was not as broad as he would like it to be, so that it would be helpful in addressing the situation in Mossville. For example, he said, to use penalty money to establish a health clinic would probably be "a larger stretch" under EPA's SEP policy. Mr. Clifford then asked Mr. Coleman whether, to Mr. Coleman's knowledge, LDEQ had a similar SEP policy. Mr. Coleman responded that LDEQ did have a SEP policy and stated that the policy essentially provided the same flexibility as EPA's SEP policy. Mr. Coleman explained that LDEQ also had the authority to establish environmental trust funds through which funds provided by penalized facilities could be drawn out by nonprofit organizations or other organizations to support projects. Mr. Coleman stated that LDEQ was pursuing SEP projects in the Lake Charles area. Referring to the use of LDEQ's SEP funds to fund a health clinic in

Mossville, Mr. Coleman stated that he thought such use was possible and suggested that the matter should be discussed with LDEQ, LDHH, ATSDR, and the residents of Mossville and nearby communities.

Referring to Mr. Flynn's recommendation that future sampling should include extensive sampling of air, soil, and food sources to complement the blood dioxin measurements, Ms. Miller-Travis stated that she was troubled by the suggestion that such an extensive and costly assessment must be performed to accurately assess whether the residents in Mossville are affected adversely. She asked Mr. Flynn whether the LCA would be willing to provide some of the funds necessary to complete such an assessment. Mr. Flynn pledged to present her suggestion to the management and board of directors of LCA.

Ms. Peggy Shepard, Executive Director, West Harlem Environmental Action, Incorporated and member of the Health and Research Subcommittee of the NEJAC, commented on the ethical considerations raised when a health agency such as LDHH is presented with data that indicate that specific individuals have been exposed to a toxic chemical, yet that agency takes no action. Ms. Dianne Dugas, Chief Epidemiologist, LDHH, responded that the state health officer in Louisiana had directed LDHH to provide an inventory of medical resources available in the area of the Calcasieu Estuary. She said that LDHH had estimated that there are some 300 physicians located in that area. Continuing, she stated that LDHH hoped to perform a community health needs assessment, so that accessibility of health care to residents can be established. However, she continued, the state health officer had informed LDHH that no funds are available to support the establishment of a clinic for the specific treatment of exposure to dioxin.

Dr. Sejud added that there is no particular treatment for exposure to dioxin. Once dioxin is in the human body, he said, it cannot be removed. Therefore, on a public health level, treatment is prevention of future exposures, he said. Dr. Sejud stated that it is simply not known whether exposure to dioxin in Mossville is linked to other health outcomes. On the issue of access to health care, he said, LDHH is committed to maximizing access to health care for all residents of Louisiana. The community health needs assessment that Ms. Dugas had mentioned is part of that process, he said.

Referring to Ms. Shepard's comments about the ethical obligations of LDHH, Ms. Veronica Eady, Executive Office of Environmental Affairs, Massachusetts Office of the Governor and member of the Waste and Facility Siting Subcommittee of the NEJAC, asked the representatives of LDHH to discuss their ethical obligation to follow-up and act when they are presented with data such as the exposure to dioxin. Ms. Eady also asked the representatives of LDHH what steps they had taken since learning of the findings presented in the Mossville exposure investigation.

Dr. Sejud acknowledged that the data presented in the Mossville exposure investigation suggest that the people in Mossville apparently have been exposed to higher than average levels of dioxin. However, the health implications of that finding are unknown, he stated again. Therefore, he explained, the ethical obligation of LDHH is to consider what the health implications might be and to act accordingly.

Commenting on Dr. Sejud's response that the health implications of the findings of the Mossville exposure investigation are unknown, Dr. Payton stated that many health outcomes have been linked to exposure to dioxin, from neurological, dermatological, and respiratory effects to all types of cancer. Continuing, she stated that, in populations for which data indicate that persons have been exposed to some level of dioxin, it can be expected that there is great potential for such health outcomes. Therefore, she declared, there is an ethical consideration in that regard. Dr. Sejud responded that current scientific literature does not provide sufficient proof of the health effects of exposure to dioxin at levels lower than 300 to 400 parts per trillion. Ms. Miller-Travis responded to Dr. Sejud's statement by observing that, regardless of whether conclusive scientific evidence exists, LDHH cannot wait until hundreds of people are sick or dying before the agency takes action. She reiterated that the issue is an ethical one.

In closing remarks, Ms. Miller-Travis suggested, on behalf of the NEJAC, that a working group of the NEJAC, made up of members of the Health and Research Subcommittee, the Waste and Facility Siting Subcommittee, and the Air and Water Subcommittee, be formed to discuss the environmental justice and health issues affecting the community of Mossville and to provide technical assistance and expertise. She expressed her hope that the community had felt "somewhat affirmed" in the day's session. She added that there is much work to be done and that the NEJAC must make a commitment to working with the stakeholders to resolve the issues before it.

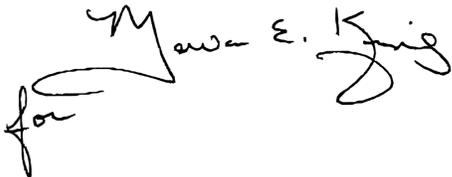
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MEETING SUMMARY
of the
PUBLIC COMMENT PERIODS
of the
NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

**May 23 and 24, 2000
ATLANTA, GEORGIA**

Meeting Summary Accepted By:

A handwritten signature in black ink, appearing to read "Charles Lee" with a stylized flourish.

**Charles Lee
Office of Environmental Justice
U.S. Environmental Protection Agency
Designated Federal Official**

A handwritten signature in black ink, appearing to read "Haywood Turrentine" in a cursive style.

**Haywood Turrentine
Chair**

**CHAPTER TWO
SUMMARY OF THE
PUBLIC COMMENT PERIODS**

1.0 INTRODUCTION

During its meeting in Atlanta, Georgia, the Executive Council of the National Environmental Justice Advisory Council (NEJAC) held two public comment periods, the first on Tuesday evening, May 23, 2000 and the second on the evening of Wednesday, May 24, 2000. During the two sessions, 61 individuals offered comments.

This chapter presents summaries of the testimony the Executive Council of the NEJAC received during the public comment periods and the comments and questions that the testimony prompted on the part of the members of the Executive Council. Section 2.0, *General Public Comment Period Held on May 23, 2000*, summarizes the presentations on general environmental justice issues offered on that date, along with the dialogue those presentations prompted. Section 3.0, *Focused Public Comment Period Held on May 24, 2000*, summarizes the testimony offered related to community environmental health and environmental justice issues during the public comment period held on that date and the dialogues between the presenters and the members of the Council that followed those presentations.

Opening the fifteenth meeting of the NEJAC, Mr. Haywood Turrentine, Executive Director, Laborers Education and Training Trust Fund (an affiliate of the Laborers International Union of North America) and chair of the Executive Council of the NEJAC, thanked the members of the council and the public who had traveled considerable distances to attend the meeting. Mr. Turrentine requested that commenters adhere to the specified guidelines to ensure that everybody on the schedule would have an opportunity to speak. He also asked that members of the Executive Council to focus on expressing questions and observations in response to the issues presented. Mr. Turrentine added that members of the council would be welcome to ask questions intended to clarify a comment offered.

**2.0 GENERAL PUBLIC COMMENT PERIOD
HELD ON MAY 23, 2000**

This section summarizes the comments presented to the Executive Council during the general public comment period held on May 23, 2000, along with

the questions and observations those comments prompted among members of the Executive Council.

Comments are summarized below in the order in which they were offered.

**2.1 Elizabeth Crowe, Chemical Weapons
Working Group, Berea, Kentucky**

Ms. Elizabeth Crowe, Chemical Weapons Working Group (CWWG), Berea, Kentucky, stated that her organization is a national coalition that works to ensure the safe disposal of chemical weapons in the continental United States and U.S. territories located in the Pacific. Ms. Crowe noted that she had spoken at the previous meeting of the NEJAC, held in Arlington, Virginia in December 1999. At that time, she said, she had discussed environmental injustices within the U.S. Department of Defense's (DoD) chemical weapons disposal program and chronic problems associated with the U.S. Department of the Army's (Army) chemical weapons incinerators in the Pacific and in Utah. The Army has illogically insisted on constructing additional incinerators in minority communities located in Oregon, Alabama, and Arkansas, continued Ms. Crowe, despite the availability of safer, more acceptable non-incineration disposal technologies.

Ms. Crowe stated that, since the December meeting of the NEJAC, Mr. Gary Harris, a former employee of the Utah incinerator, had alleged that, to maintain the Army's operating permits, the Army and its contractor intentionally falsified information submitted to the state of Utah. Those allegations corroborate handwritten statements and memorandums released to the CWWG by Mr. Steve Jones, safety manager at the Utah incinerator, she stated.

On Monday, May 8, 2000, she continued, when chemical agents were released from the incinerator smokestack, the Army waited four hours before notifying county officials. The public was not notified until Wednesday, May 10, she added. Further, she pointed out, requests for basic information about the incident made by citizens during a public meeting were ignored.

Ms. Crowe stated that the U.S. Environmental Protection Agency (EPA) is poised to grant the Army a permit to burn shipping tubes laden with

polychlorinated biphenyls (PCB) in the incinerators. The permit is applicable to any chemical weapons incinerator, including the one in Anniston, Alabama, she said, but a public hearing was held only in Utah. Ms. Crowe pointed out that minority communities should not be subjected to the risks that incinerators capable of releasing live chemical agents pose when safer non-incineration technologies have passed demonstration tests successfully.

Ms. Crowe then expressed her belief that the existing subcommittees of the NEJAC are not well equipped to handle issues related to Federal facilities. She requested support from the NEJAC in “pulling” permits for chemical weapons incinerators in favor of safer, non-incineration technologies.

Mr. Tom Goldtooth, Indigenous Environmental Network and chair of the Indigenous Peoples Subcommittee of the NEJAC, stated that he was aware of several of the facilities Ms. Crowe referred to. Mr. Goldtooth noted that the incinerator at Umatilla Army Depot, Utah, burns toxic materials. That issue already had been identified as an environmental justice one, he said. He asked Ms. Crowe to verify whether the Umatilla Tribe has opposed the facility since its initial siting. Ms. Crowe verified that the tribe had expressed a number of concerns about the site, adding that over the preceding few months, several problems had arisen at the site. Ms. Crowe stated that 63 percent of the stockpiled chemical weapons in Oregon are identical to those stored in Maryland, where they currently have a pilot plan under construction for neutralization. A number of people in that affected community, including members of nearby tribes, favor that neutralization technology for use in Oregon, she added. Mr. Goldtooth also asked Ms. Crowe whether the Utah facility still was in operation. Ms. Crowe said that the incinerator had been shut down, on May 8, until the cause of the release of the chemical agents could be determined.

Ms. Annabelle Jaramillo, Oregon Office of the Governor and Vice Chair of the Air and Water Subcommittee of the NEJAC, asked Ms. Crowe what types of chemicals are involved in causing the problems. Ms. Crowe said that the types of chemicals involved are lethal chemical agents, nerve agents, and mustard agents.

2.2 James Friloux, Louisiana Department of Environmental Quality, Baton Rouge, Louisiana

Mr. James Friloux, Louisiana Department of Environmental Quality (LDEQ), Baton Rouge, Louisiana, reminded the members of the NEJAC that

they had toured the community of Norco, Louisiana during the meeting held by the NEJAC in Baton Rouge, Louisiana in December 1998. During that week, he continued, several industrial companies had alerted the community to a possible chemical release. Citizens of Norco attended the meeting of the NEJAC and, during one of the public comment sessions, expressed their concerns about living next to the Norco industrial complex, he continued. Following that meeting, Mr. Friloux said, he had formed a panel consisting of 30 members of the community and representatives of five industries. Topics discussed by the panel have included emergency response, evacuation routes, health issues, and job training, stated Mr. Friloux. Mr. Friloux expressed his view that the meetings had been very productive to date and that the formation of the panel has fostered an open dialogue between the citizens of the community and their industrial neighbors.

Ms. Rosa Hilda Ramos, Community of Cataño Against Pollution and member of the Air and Water Subcommittee of the NEJAC, asked Mr. Friloux what efforts the state had made to engage affected communities early in the Title V permitting process under the Clean Air Act (CAA). Mr. Friloux responded that information is shared primarily through a public hearing process. Ms. Ramos added that the Title V process is a very complicated one that citizens find difficult to comprehend and that it is necessary that the state share information to educate communities about the permits. Ms. Ramos then asked whether the state would be willing to extend the comment periods for some of the Title V permits that have passed without community participation. Mr. Friloux stated that the state had extended comment periods several times at the request of citizens.

2.3 Farella Esta Robinson, United States Commission on Civil Rights, Kansas City, Kansas

Ms. Farella Esta Robinson, United States Commission on Civil Rights, Kansas City, Kansas, stated that her organization had been examining environmental justice issues in Louisiana since the early 1990s. The commission, she said, currently is responsible for conducting fact-finding studies and hearings on civil rights developments and issues across the country. In 1993, the U.S. Commission on Civil Rights released a report, *The Battle for Environmental Justice in Louisiana ... Government, Industry, and the People*, which examined environmental concerns in Louisiana. The commission, she continued, currently is conducting a follow-up study because the problems in Louisiana

continue to exist. One of the recommendations made in the report was that EPA, state, and local officials consider Title VI of the Civil Rights Act of 1964 (Title VI) as an element of environmental justice and prohibit discrimination based on race. She invited the members of the NEJAC to a public hearing to assess successes and problems that continue following efforts made to implement the recommendations set forth in the commission's 1993 report.

2.4 Jerome Balter, Public Interest Law Center of Philadelphia, Philadelphia, Pennsylvania

Stating that he is an attorney who performs environmental work, Mr. Jerome Balter, Public Interest Law Center of Philadelphia, Philadelphia, Pennsylvania, noted that all his clients are community groups formed by minority populations who are experiencing problems with existing polluting facilities or proposed facilities. Mr. Balter explained that, since EPA releases its *Title VI Interim Guidance for Investigating Administrative Complaints Which Challenge Permitting Decisions*, he has been addressing issues related to Title VI. In his opinion, he continued, EPA's interim guidance does not address the disparities in health conditions that exist in this country. The guidance does not seek any information about the health of the community in which the siting of a facility has been proposed, he added. In response to that lack of information, the Law Center of Philadelphia developed an alternative guidance system, or an environmental justice protocol, he explained. The protocol is based on the philosophical concept that, if a community already has a disparately poor health record, it should not be made to endure the presence of another polluting facility.

Mr. Balter explained that the law center examines the health of a community on a comparative basis. All data used for comparative analysis are extracted from official state health data, he noted. While a community may not be familiar with the intricacies of the toxic chemicals, its members are familiar with their health, he explained. Mr. Balter stated that a system based on health should be implemented to replace EPA's proposed impact analysis and cumulative impact analysis, which do not address the protection of communities.

Dr. Marinelle Payton, School of Public Health, Harvard University Medical School and chair of the Health and Research Subcommittee of the NEJAC, observed that the Health and Research Subcommittee would like to consider the issue raised by Mr. Balter. Ms. Ramos then suggested that Mr. Balter engage in the process of commenting

on EPA regional environmental justice policies. Each EPA region must develop an environmental justice policy, she explained, suggesting that Mr. Balter work with the region to incorporate the concepts he had described into that policy.

2.5 Doris Bradshaw, Defense Depot Memphis, Tennessee, Concerned Citizens Committee, Memphis, Tennessee

Observing that a complaint system for Federal facilities is needed, Ms. Doris Bradshaw, Defense Depot Memphis, Tennessee, Concerned Citizens Committee, Memphis, Tennessee, stated that emergency response and preparedness are not addressed when removals of chemical weapons are carried out in her community. The community, which consists primarily of older people, is adjacent to a 60-acre landfill called Dunn Field from which the U.S. Defense Logistics Agency (DLA) is removing chemical test kits that contain mustard and nerve gases. DLA selected the emergency preparedness plan for the community, which is to "stay in place" in a worst-case scenario, she explained. The plan is not adequate, she continued, because the people live on a dead-end street with a 40 foot wall located at the end of the street making it impossible for those people to be rescued by air lift in this "stay in place" scenario. Further, she explained that DLA chose the middle of June to remove the chemical test kits; at a time when the weather is hot and humid. This "stay in place" scenario requires that residences stop using air conditioning, "stuff" towels under doors, and hang plastic sheets over windows to avoid contact with the air, Ms. Bradshaw stated. She expressed fear that such procedures would cause high incidents of heat related deaths. According to Ms. Bradshaw, the more the members of the community approach DLA, the more retaliation the community is subjected to. EPA also had been unresponsive, she added.

Ms. Bradshaw requested that EPA and the NEJAC implement a complaint system for Federal facilities so community voices can be heard. Mr. Turrentine acknowledged Ms. Bradshaw's recommendation and noted that the issue would be addressed by the subcommittees during the week. Mr. Turrentine stated that more research on the Federal facilities issue would be needed before it could be determined which direction the NEJAC should take, but added that the subcommittees would meet with representatives of the Memphis community to determine how they can act on the issues Ms. Bradshaw had raised. Ms. Ramos then asked what role the local emergency planning committee had played in Ms. Bradshaw's community, noting that complaints can be filed with that body. Ms.

Bradshaw responded that the local emergency response committee had informed DLA that the team was not prepared to deal with a chemical weapons emergency. Ms. Bradshaw told the members of the council that she would give them a letter explaining the situation that had been submitted to the highest-level official of DLA. Ms. Ramos noted that the law requires that a local emergency planning committee be maintained that includes a representative of the community and that it is important that the council address the lack of community involvement in local emergency planning in Ms. Bradshaw's community.

2.6 MaVynee Oshun Betsch, A.L. Lewis Historical Society, American Beach, Florida

Ms. MaVynee Oshun Betsch, A.L. Lewis Historical Society, American Beach, Florida, began her presentation by noting that she is the great-granddaughter of A.L. Lewis, who was Florida's first black millionaire. A.L. Lewis founded American Beach, a black beach community, in 1935, she said. Ms. Betsch pointed out that there are three telecommunications towers in the community. In addition, she continued, the community is surrounded by beach resorts, two paper mills, several military bases, and a coal-fired plant. Therefore, she stated, the air pollution is unbearable. Black males in northeast Florida are more likely than any other population to develop lung cancer, she continued, and, blacks in general have a death rate 2.5 times higher than that for whites. Developers are building seven new condominiums and placing the sewage treatment plant right in her community, Ms. Betsch said.

Ms. Betsch concluded by emphasizing that American Beach is a very special and historical place. Ms. Betsch requested that the Health and Research Subcommittee of the NEJAC encourage EPA to investigate air pollution cause by the towers. She stated that the telecommunications towers "are going up like cancer" that primarily affect black communities.

2.7 Sarah Craven, Sierra Club, Atlanta, Georgia

Ms. Sarah Craven, Sierra Club, Atlanta, Georgia, informed the members of the council that she would be discussing some examples of how the current regulatory processes and state agencies delegated authority by EPA are failing the communities they are designed to protect. Before the current year, she said, Alabama had no regulations governing concentrated animal feeding operations (CAFO) for hogs. The Alabama Department of Environmental Management (ADEM) allowed the CAFO industry to

recommend regulations, which the public then was allowed to comment on, she explained. ADEM appointed an environmental committee to provide recommendations about CAFOs to ensure the protection of public health and environmental quality, but ADEM subsequently neglected to accept any of the significant recommendations, she stated. As a result, she continued, the regulations were written by the corporations they were intended to regulate, which has resulted in CAFOs operating 100 feet from people's homes.

In Amelia, Louisiana, LDEQ issued a permit for hazardous waste incinerator operated by GTX without establishing any rules or regulations to govern the operations of the incinerator, Ms. Craven continued. The agency gave the public an opportunity to voice concerns about the issuance of the permit, but no agency decision maker was present during that event, she stated. Ms. Craven explained that the public was given only six weeks to read an excessive amount of technical information, learn to interpret that information, and provide comments. All the critical EPA health impact studies that demonstrate that the facility poses health risks were hidden from the public throughout the comment period, she said.

Ms. Craven pointed out that permit processes place the expression of views by citizens at the mercy of the agency, while the state agency justifies its decision on the basis of information provided by the corporation seeking the permit. Agencies are charged with protecting the public, she stated, but they cater instead, to the permitted industry. Communities therefore are forced to use the court system as their only recourse, and affordable representation is rarely available, she said. Ms. Craven stated that agencies should perform risk assessments, impact studies, and health studies before the permit process begins.

Mr. Luke Cole, Center on Race, Poverty, and the Environment and chair of the Enforcement Subcommittee of the NEJAC, informed Ms. Craven that the Enforcement Subcommittee was to hear a presentation on CAFOs during its meeting on the following day and welcomed her participation in that meeting.

2.8 Jeannie Economos, Farm Worker Association of Florida, Apopka, Florida

Stating that her organization represents more than 7,000 farm workers in Florida, Ms. Jeannie Economos, Farm Workers Association of Florida, Apopka, Florida, expressed concern for the well-being of farm workers because of the nation's

dependency on pesticides. Farm worker health is jeopardized by exposure to pesticides, she said. Despite the warnings set forth by Rachel Carson in her book *Silent Spring* (Houghton Mifflin Company, Boston, Massachusetts, 1962), the pesticide situation is worse today than it was when that book was published, she stated, with thousands of new pesticides being approved every year.

Methyl bromide is one of the most toxic pesticides and one of the most widely used today, Ms. Economos continued. Even though use of methyl bromide had been scheduled to be phased out by 2001, lobbying by “agribusiness” pushed the date back to 2005, she said. Ms. Economos pointed out that methyl bromide is 50 times more potent than chlorofluorocarbons in destroying the ozone layer, which leads to increased cancer rates. Instead of pursuing sustainable alternatives like soil solarization, integrated pest management, or crop rotation, agribusiness is looking for a “quick-fix,” she stated. The Farm Workers Association currently is protesting the use of toluene-2, which is being proposed by agribusiness to replace methyl bromide, she said.

Ms. Economos requested that EPA examine the pesticide registration process and research into alternatives to reduce the nation’s dependence on pesticides, especially methyl bromide. Mr. Cole then pointed out that methyl bromide has a disproportionate effect on residents of homes and students in schools located near the fields on which it is used. Mr. Cole stated that a Title VI administrative complaint had been filed at EPA because of exposure to methyl bromide in a Latino community in California, but, he said, the Agency had taken no action. Mr. Arnoldo Garcia, Urban Habitat Program and chair of the International Subcommittee of the NEJAC, stated that the issue was to be discussed during the meeting of the International Subcommittee on the following day. Mr. Fernando Cuevas, Farm Labor Organizing Committee and member of the International Subcommittee of the NEJAC, noted that a friend of his suffered a coma in 1979 after three days of exposure to methyl bromide while working in strawberry fields. Ms. Ramos pointed out the possibility of a catastrophic accident while transporting methyl bromide and stated that the NEJAC should not overlook the issue.

2.9 Chavel Lopez, Southwest Public Workers Union, San Antonio, Texas

Representing the Southwest Network for Environmental and Economic Justice, Mr. Chavel Lopez, Southwest Public Workers Union, San

Antonio, Texas, stated that people of color throughout the Southwest are organizing to create healthy communities. The Southwest Network is composed of more than 70 grassroots organizations, trade unions, and student groups throughout the southwestern United States and Mexico, he explained. For years, he continued, their communities have been treated as expendable members of society and have been exposed to toxic contaminants. Health care institutions do not know how to deal with the sicknesses that are a result of exposure to toxic contaminants, Mr. Lopez said.

Mr. Lopez pointed out that low-income, working class communities of color live in neighborhoods that are affected disproportionately by environmental hazards. In Los Angeles, California, a much higher percentage of Latinos and African-Americans than whites live in areas in which levels of air pollution are dangerously high. In addition, he continued, rates of lead poisoning and asthma among African-Americans and Chicanos are higher than among whites. For Navajo teenagers, cancer rates are 17 times the national average, while uranium spills from mining activities on Navajo land occur frequently and have contaminated their water, soil, and air, he said. U.S. farm workers, a majority of whom are minorities, are poisoned every year by pesticides, he added. The disproportionate siting of polluting industries and hazardous dumps in communities of color has contributed to the poisoning of their people, land, and air, he stated.

Mr. Lopez called upon the NEJAC to ensure that this health crisis becomes a priority for EPA and all other Federal agencies responsible for protecting people’s health and the environment. He then submitted a summary of a “health symptoms survey” that was conducted in San Antonio, Texas in communities contaminated by pollutants originating from Kelly Air Force Base. He stated that representatives of the Southwest Network had a productive meeting with Mr. Gregg Cooke, Regional Administrator of EPA Region 6, and Mr. Jerry Clifford, Deputy Regional Administrator of EPA Region 6, to discuss the contaminated areas in Texas.

Ms. Vernice Miller-Travis, Partnership for Sustainable Brownfields Development and chair of the Waste and Facility Siting Subcommittee of the NEJAC, asked Mr. Lopez what response his organization has received from the Air Force. Mr. Lopez stated that the Air Force did not accept the health symptoms survey. The Agency for Toxic Substances and Disease Registry (ATSDR) conducted a health assessment and found high cancer rates in certain areas, but did not attribute the sicknesses to contamination originating from the Air

Force Base, he said. Ms. Rose Augustine, Tucsonans for a Clean Environment and Vice Chair of the Health and Research Subcommittee of the NEJAC, asked about the need for adequate health care. Mr. Lopez responded that the community does not have adequate health care and that a majority of the people of the community cannot afford to meet their medical needs.

2.10 Marvin Crafter, Wollfolk Citizens Response Group, Fort Valley, Georgia

Mr. Marvin Crafter, Wollfolk Citizens Response Group, Fort Valley, Georgia, first stated that five minutes is insufficient time for representatives of communities affected by the problems created over the past 100 years to set forth their concerns. He then expressed a lack of trust in the NEJAC and EPA, stating that those entities had not done enough to reverse the problems affecting minority communities today. The NEJAC has the reputation of being "two-sided," he said, leaving the community out of important decision-making processes. EPA is supposed to protect people, he continued, but the record of what has been done over the past 15 years shows that it has not done so, he stated.

Mr. Crafter informed the members of the council that he recently had requested a list of recommendations that the NEJAC had made to EPA, but that he had not received the information. That experience, he said, demonstrates to him that the actions of the NEJAC have been inadequate to meet the needs of communities affected by environmental justice issues.

Mr. Crafter stated that communities are tired of being assessed, when immediate action is necessary. Requests for health care have fallen on deaf ears, he said. Mr. Crafter requested that the scope of the NEJAC be expanded to include a group of consultants to affected communities from each EPA region who would serve as a conduit between the NEJAC and communities to assist in the identification and addressing of the needs of those communities. He also suggested that a series of pre-NEJAC national committee meetings and other outreach tools would facilitate the addressing of community needs. Mr. Crafter then stated that too much money is spent to analyze research. The money would have been better spent on health care for people in communities affected by contamination originating from Superfund sites and Federal facilities. He requested that the NEJAC recommend EPA expand its relationship with ATSDR to provide health care funding for communities affected by contamination originating from sites on the National Priority List (NPL) and Federal facilities.

2.11 Earnest Marshall, Ombudsman Development Foundation Inc, Atlanta, Georgia

Mr. Earnest Marshall, Ombudsman Development Foundation Inc., Atlanta, Georgia, mentioned that environmental conditions in several neighborhoods in Atlanta, Georgia are causing numerous illnesses. The University of Georgia's wastewater treatment facility discharges waste into the Oconee River and there is questionable dumping of radiation feed for chickens, supposedly to make their chickens bigger, he said. Members of minority communities who live in close proximity to a former General Motors site that once manufactured munitions are becoming ill, but they do not understand why, he added. ATSDR and EPA examined that site, but nothing was done beyond some research, he said.

Justice should be sought under Executive order 12898 on environmental justice, Mr. Marshall said. Georgians have been told that they can no longer eat fish from the Savannah River because of tritium contamination, he pointed out. If EPA Region 4 is to gain credibility, he stated, the region must deal with the state of Georgia and with contaminated sites in the region, he stated.

2.12 Henry Rodriguez, Native American Environmental Protection Coalition, Valley Center, California

Stating that he is a resident of the La Jolla Reservation in north San Diego County, California, Mr. Henry Rodriguez, Native American Environmental Protection Coalition, Valley Center, California, informed the members of the council that a landfill had been sited next to a river on that reservation. The proposed landfill would be located adjacent to Medicine Mountain, where coming of age ceremonies are held, he explained. Mr. Rodriguez questioned the wisdom of siting a landfill adjacent to a river. At a recent meeting in California, he added, engineers had discussed the technical aspects of the landfill, but did not consider its effect on the community. Mr. Rodriguez requested that the NEJAC examine the issue.

2.13 Elodia Blanco, Concerned Citizens of Agriculture Street Landfill, New Orleans, Louisiana

Stating that her community overlies a toxic landfill, Ms. Elodia Blanco, Concerned Citizens of Agriculture Street Landfill, New Orleans, Louisiana, described the development of her African-American community. The U.S. Department of Housing and

Urban Development (HUD) had approved funds under a Federal grant to allow the city of New Orleans to build the community on top of a toxic landfill, she explained. She pointed out that no efforts were made to inform new homeowners about the landfill underlying their property when they purchased the homes. The Agriculture Street Landfill covers 100 acres and was in use from 1910 until 1960, she stated. Exposure to more than 150 toxins, heavy metals, and carcinogens has led to elevated incidences of birth defects and breast cancer in her community, she added.

Ms. Blanco, stated that several attempts had been made to recommend that EPA Region 6 support relocation of the community, but those attempts were ignored. The remediation plan proposed by EPA will clean only 10 percent of the site and will increase the risk of broken water lines, she said. Ms. Blanco urged the council to take the necessary steps to request that EPA consider a relocation plan. Ms. Miller-Travis suggested that representatives of Ms. Blanco's organization speak with Mr. Kent Benjamin, Outreach and Special Project Staff, EPA Office of Solid Waste and Emergency Response (OSWER), and Designated Federal Official (DFO) of the Waste and Facility Siting Subcommittee.

2.14 Jerilyn Lopez Mendoza, Environmental Defense, Los Angeles, California

Ms. Jerilyn Mendoza, Environmental Defense, Los Angeles, California, stated that her organization focuses on ensuring equal access to clean parks and schools for children, ensuring transportation equity, and alleviating exposure to toxics. Several ongoing campaigns in Los Angeles are related specifically to environmental justice, she said. Expansion of the Los Angeles International Airport will have direct effects on the neighboring community, Inglewood, she stated. Airport traffic is projected to almost double by the year 2020, she explained, which would increase the environmental degradation already suffered in the predominantly African-American community, which includes noise pollution and air pollution related to diesel emissions from airplanes and trucks. Environmental Defense, in conjunction with a number of other organizations, is attempting to persuade airport authorities to address environmental equity and justice issues in their planning, she said. Ms. Mendoza said that Environmental Defense also is working to encourage those authorities to promote participation by communities in the planning process.

In addition, Environmental Defense is working with environmental and community groups to increase the amount of green space for children in Los

Angeles, she said. Ms. Mendoza explained that, in Los Angeles, there is a vast disparity in green space in communities; that disparity, she pointed out, is related directly to race and income. Chinatown, a predominantly Asian section of Los Angeles, has no open space, no parks, and no schools, she stated. Environmental Defense is working to persuade the city to commit a 47-acre plot of unused land in the community for use for schools and parks. Ms. Mendoza stated that she would appreciate speaking with anyone on the council who had any insight into these issues she had raised.

2.15 Donald Brown, People for Environmental Progress and Sustainability, Vallejo, California

Mr. Donald Brown, People for Environmental Progress and Sustainability, Vallejo, California, stated that there is a need to clearly define environmental justice and the relationship of that concept to the civil rights movement. He added that there is a communication gap between industry and the communities in matters related to environmental justice. He pointed out that representatives of industry never attend meetings of the NEJAC. Mr. Brown stated that our country focuses many of its resources on problems that occur abroad; that focus limits what is done about contaminated communities in our country. While the global economy is moving forward rapidly, he continued, the problems that existed in minority communities years ago persist today. Mr. Brown emphasized that the time to act is now and that people must "stick together" and trust each other to effectively achieve their goals.

Ms. Patricia Hill Wood, Georgia Pacific Corporation and member of the Waste and Facility Siting Subcommittee of the NEJAC, stated that a number of industry representatives were in attendance at the meeting. Those representatives she said, are concerned about environmental justice issues. Ms. Wood stated that several members of the NEJAC are industry representatives. Mr. Brown responded that he hoped Ms. Wood would make resources available to cleanup communities. He stated that industry pays for remediation when a certain incident occurs but does not change processes or actions.

2.16 Bill Burns, Environmental Awareness Foundation, Atlanta, Georgia

Stating that his organization addresses household health hazards, Mr. Bill Burns, Environmental Awareness Foundation, Atlanta, Georgia, stated that lead poisoning is a significant problem in the state of Georgia. According to Mr. Burns, the city of Atlanta does not have a telephone contact that people in the

city can call to obtain information about lead poisoning, a situation that his organization would like to change, he stated. He said that the Environmental Awareness Foundation had gathered statistics and facts that demonstrate that lead contamination and asthma are significant problems in communities in Atlanta. Mr. Burns asked for advice from the NEJAC about how he can obtain information, funding, and resources to allow the community to address the issue.

Dr. Payton asked Mr. Burns whether there is a lead poisoning prevention program in the state of Georgia. Mr. Burns responded that Georgia had reimplemented its lead poisoning program, but noted that the program is not reaching the community. Ms. Peggy Shepard, West Harlem Environmental Action; member of the Health and Research Subcommittee of the NEJAC; and Vice Chair of the Executive Council, suggested that the Environmental Awareness Foundation consider applying for an EPA environmental justice grant to acquire resources to undertake a community education campaign.

2.17 Samara Swanston, Sierra Club, Brooklyn, New York

Noting that she would be speaking on behalf of two organizations, Ms. Samara Swanston, Sierra Club, Brooklyn, New York, stated that the National Sierra Club is opposed to the National Association of Home Builders (NAHB) bill. The NAHB bill is brownfields legislation that would permit owners to build homes on contaminated land and would abrogate EPA's enforcement authority under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) in a situation in which imminent and substantial danger exist because a home builder wanted to construct homes on contaminated land, she said. Under current law, she continued, EPA has the authority to order a polluter to stop a release or a threatened release and to impose fines if the polluter fails to cooperate. The proposed NAHB bill weakens Federal provisions under CERCLA that protect communities from economic, health, and environmental consequences resulting from inadequate cleanup of Superfund sites, she explained. Ms. Swanston stated that under the NAHB bill, the ability of EPA and the public to provide oversight of brownfields sites is impeded by provisions that allow the state to withhold the names and locations of facilities undergoing voluntary cleanup.

Ms. Swanston stated that the Sierra Club would like to propose stringent cleanup standards to protect human health, retention of Federal enforcement authority, and provision of financial assistance to help communities assess and remediate brownfields

properties. She also pointed out that substantive public participation should be provided for early in the brownfields redevelopment process.

Ms. Swanston then stated that she also was speaking on behalf of Minority Environmental Lawyers who represent a community group in Dobbs Ferry, New York that is working to protect a historical, indigenous site. According to Ms. Swanston, the site qualifies for listing on the National Register of Historic Sites. The state of New York is allowing the destruction of cultural sites like the one she had described, she said. Ms. Swanston read a letter prepared by the director of the community group that stated that the sacred site had been desecrated by the siting there of a demolition landfill and the construction of townhouses. Ms. Swanston added that, every year, a bill is brought before the New York state legislature to protect such sites that are not on a reservation, but the legislation never passes, she said. The NEJAC and the U.S. Department of the Interior (DOI) should take action against the state of New York if the state continues to allow the destruction of archaeological sites, she declared.

Ms. Miller-Travis asked Ms. Swanston about the status of the NAHB bill in Congress. Ms. Swanston replied that EPA supports the bill and that it probably would be introduced.

2.18 Michelle Xenos, Shundahai Network, Las Vegas, Nevada

Noting that she had spoken at the meeting of the NEJAC in Arlington, Virginia, in December 1999, Ms. Michelle Xenos, Shundahai Network, Las Vegas, Nevada, stated that she lives an hour south of the Nevada Nuclear Test Site, where the proposed Yucca Mountain high-level nuclear waste dump is to be located. There is a lack of monitoring of Federal facilities, she pointed out, and the public does not have access to U.S. Department of Energy (DOE) or DoD information about environmental effects. Ms. Xenos explained that she grew up on an island on which more than 3,000 nuclear weapons were located and near a location at which millions of gallons of radioactive waste had been dumped into Pearl Harbor. Breast cancer rates in that area are 10 times higher than average, she stated. The environmental effects of nuclear weapons are felt throughout the process of nuclear development, from uranium mining to detonation, she continued. Ms. Xenos requested that the NEJAC establish a subcommittee to examine the operations of Federal facilities because, she stated, "they are not held accountable for anything."

2.19 Jay Gilbert Sanchez, Tribal Environmental Watch Alliance, Espanola, New Mexico

Mr. Jay Gilbert Sanchez, Tribal Environmental Watch Alliance, Espanola, New Mexico, stated that he lives near the Los Alamos National Laboratory. Mr. Sanchez acknowledged that EPA does not have the authority to monitor DoD and DOE, both of which, he charged, operate without considering the effects of those operations on human health and the environment. Stating that he also is the chairman of the People of Color Disenfranchised Communities, Mr. Sanchez explained that the effect of Federal facilities extends beyond the United States to adversely affect people in Puerto Rico, U.S. western territories, and the Pacific Ocean.

Mr. Sanchez discussed the fire at the Los Alamos National Laboratory that had been burning for 14 days. He explained that air quality is declining, stating that the air pollution caused by the fire “will be around forever.” Mr. Sanchez asked that the members of the NEJAC address the issue of Federal facilities and the effects of their operations.

Mr. Goldtooth asked Mr. Sanchez whether there was evidence of radioactive contamination outside the facility that could have been released into the atmosphere during the burn. Mr. Sanchez responded that the flora and fauna around the laboratory are contaminated. Mr. Clifford stated that the New Mexico environmental department had asked EPA Region 6 to conduct additional air sampling, beyond that performed by DOE. There was concern not only about plutonium in the concrete vaults, he continued, but also about the solid waste management units throughout the site that are contaminated with chemical and radioactive wastes. Data from 20 air monitors, Mr. Clifford said, indicated no increase in radiation as a result of the fire. Mr. Clifford confirmed that air monitors did not begin operating until several days after the fire began. Mr. Sanchez pointed out that the wind had not been blowing in the direction of the monitors. Mr. Sanchez reiterated that he has firsthand proof that there is contamination on the site. How can the government be trusted, he stated, when it is obvious that its representatives are not being honest with American citizens.

2.20 Teresa Juarez, New Mexico Alliance, Chimayo, New Mexico

Ms. Teresa Juarez, New Mexico Alliance, Chimayo, New Mexico, expressed her dismay about the variety of issues and concerns in communities described by commenters who had preceded her. She then explained that she lives near the Los Alamos controlled burn site that had been burning out of

control for days. “Nobody knows what kinds of contaminants are being released into the air people are breathing,” she said, pointing out that many of the burned houses also contain asbestos. People were told that plutonium at the Los Alamos Laboratory was enclosed in concrete vaults and that there was nothing to worry about, she said, but, months earlier, a meeting was held at which 450 workers expressed concern about contamination buried around the site and elevated cancer rates. Ms. Juarez demanded of the council that a subcommittee be established to address issues related to Federal facilities.

Ms. Juarez pointed out that a majority of the firefighters on site were Native Americans and Hispanics and that they were not properly protected. “When the government can prove to us that there is no contamination, then we will be satisfied,” she said. Mr. Cole stated that it is not credible that a fire of such magnitude can burn without increasing the level of chemicals in air. Mr. Clifford then stated in clarification that the levels of chemical and radioactive contamination the monitoring indicated were no higher than those that would be found during a typical forest fire.

2.21 Mark Mitchell, Connecticut Coalition for Environmental Justice, Hartford, Connecticut

Mr. Mark Mitchell, Connecticut Coalition for Environmental Justice, Hartford, Connecticut, stated that his group provides assistance to local organizations in Connecticut. A few years earlier, he continued, the group formed the Hartford Environmental Justice Network. Hartford is 78 percent black and Latino, he pointed out, and incomes in the city are very low in a state that is very wealthy. Hartford has more waste disposal facilities than any other city in the state of Connecticut, the largest sewage treatment plant and sewage sludge incinerator in Connecticut, and the largest trash incinerator in the state, he said. The trash incinerator has an average of 100 fire calls per year, as well as a major explosion or fire approximately once a month, he added. Eight regional waste facilities and four power plants are located in the eight-square-mile area surrounding the community, he said.

Mr. Mitchell pointed out that the Hartford Environmental Justice Network has had several successes, including the removal of a power plant that was built without any public notification or hearings. In addition, he said, the organization persuaded the city council to ban a ninth regional waste facility. Mr. Mitchell stated that the group is very concerned about the city’s asthma rates, which,

he said, are the highest in the country. Forty-one percent of the community's children have asthma, he explained. He requested that the NEJAC address the asthma epidemic in Hartford's communities and that EPA fund research into alternative waste disposal technologies that would eliminate hazardous air pollutants.

Ms. Miller-Travis asked Mr. Mitchell whether he had conversed with Ms. Jane Stahl, Assistant Commissioner of the Connecticut Department of Environmental Protection and member of the Health and Research Subcommittee. Mr. Mitchell stated that representatives of his organization had spoken with Ms. Stahl and that the organization has a good relationship with her department. Ms. Miller-Travis informed Mr. Mitchell that Ms. Stahl is a member of the NEJAC, suggesting that he discuss with Ms. Stahl the specific initiatives and actions he would like the NEJAC to take. Mr. Mitchell stated that some of the research should be funded on the Federal level, stating that such funding was the purpose for which he had brought the issue to the NEJAC. Ms. Shepard asked what relationship the organization has with the state Department of Environmental Protection's Office of Environment Equity. Mr. Mitchell stated that the organization worked closely with that office, but that progress is slow.

Mr. Charles Lee, Associate Director for Policy and Interagency Liaison, Office of Environmental Justice (OEJ), EPA Office of Enforcement and Compliance and Assurance (OECA) and DFO of the Executive Council, requested that Mr. Mitchell elaborate on the recommendation that the NEJAC examine the asthma epidemic. Mr. Mitchell responded that there is a link between air pollution and respiratory illnesses. EPA should address those relationships, he said. Mr. Lee pointed out to the members of the NEJAC that one approach to addressing health issues related to environmental justice is to examine specific diseases and illnesses. Mr. Mitchell pointed out that, in the United States, asthma is an epidemic that affects urban areas and minorities disproportionately.

2.22 Le Vonne Stone, Fort Ord Environmental Justice Network, Marina, California

Noting that she had spoken before the NEJAC several years earlier, Ms. LeVonnie Stone, Fort Ord Environmental Justice Network, Marina, California, explained that Fort Ord is one of the largest Superfund sites in the country. The goal of her organization when she spoke before the NEJAC earlier was to secure help for affected communities through the establishment of health clinics and through testing for contamination, she explained. She said that smoke from emissions, detonations,

and large burns aggravates respiratory problems, especially in sensitive children and adults. Even the Federal workers are concerned about the safety of their work environment, she pointed out. The communities have seen their economic base deteriorate because of the closing of massive facilities, she continued. Those areas must be cleaned up to ensure the safety of communities, she stated. The local Army environmental division has spent more than \$350 million on the cleanup of Fort Ord since 1993, but no health clinics have been established in affected communities, she explained.

Ms. Stone stated that she wants to see the site cleaned up and that the community should be involved in the process. Mr. Turrentine explained that, before the end of the current meeting, the NEJAC hoped to develop a process for dealing with issues related to Federal facilities. He stated that the NEJAC hoped to establish a working group that will initiate interaction with members of affected communities. Ms. Stone indicated that she also would like to see an end to the intimidation and harassment of individuals in the community who bring up health issues.

2.23 Rabbi Dan Swartz, Children's Environmental Health Network, Washington, D.C.

Rabbi Dan Swartz, Children's Environmental Health Network, Washington, D.C., explained that the same forces that exploit people for racial or economic reasons also exploit children because of their lack of political and economic power. Rabbi Swartz said he recently had attended a private seminar on children's environmental health sponsored by the Congressional Research Service. He expressed concern about policies that might result from the meeting, pointing out that many of the participants were representatives of polluting industries who claim that the public already is protected by existing environmental standards. No minorities attended the seminar, he added, and the issue of environmental justice would not have been brought up if he had not done so.

Rabbi Swartz pointed out that many of the protections currently implemented on behalf of children may disappear, including the abolition of the Office of Children's Environmental Health Protection in two years. It is time to think about the future, he stated, and to plan for our children's health, especially that of those who suffer from environmental discrimination.

2.24 Jim MacDonald, Pittsburg Unified School District, Pittsburg, California

As an elected official of the Pittsburg Unified School District, Mr. Jim MacDonald, Pittsburg Unified School District, Pittsburg, California, stated that it is his responsibility to look after the health and welfare of the children in his district. Mr. MacDonald pointed out that state and Federal agencies are rewriting what constitutes an environmental justice community. He explained that the California Energy Commission requires that a community have a population of at least 130,000 before they will consider environmental justice. His city has a population of 60,000, he continued. Even though that population is 70 percent minority, the community is not considered a minority community for purposes of consideration of environmental justice, he said.

The Pittsburg Unified School District requested that EPA Region 9 designate the city an environmental justice community, Mr. MacDonald said. He pointed out that there are four major power plants and four minor power plants, a major chemical facility, and several refineries in the city. EPA responded that the Agency does not have the authority to designate environmental justice communities, he said. The Pittsburg Unified School District filed a complaint against EPA Region 9 with EPA's Office of Civil Rights (OCR) for violation of Title VI, he stated. EPA is at fault, Mr. MacDonald continued, because the Agency is supposed to enforce environmental justice regulations. Environmental impact reports should be required in minority and low-income school districts and should be presented to the school district, not to EPA, he said.

2.25 Jackie Ward, Southern Organizing Committee for Economic and Social Justice, Brunswick, Georgia

Ms. Jackie Ward, Southern Organizing Committee for Economic and Social Justice, Brunswick, Georgia, read a letter sent to Ms. Connie Tucker, Southern Organizing Committee for Economic and Social Justice, Brunswick, Georgia and former member of the Waste and Facility Siting Subcommittee of the NEJAC, by Reverend Zack Lyde, Save the People, Brunswick, Georgia. Reverend Lyde explained that his mother had fallen ill because of toxic shock. Her illness originally had been misdiagnosed as liver cancer, he wrote. Toxicity in a community is not taken into consideration when performing a medical diagnosis, he stated. Reverend Lyde stated that the NEJAC should investigate lack of health insurance and misdiagnosis of illnesses in contaminated communities. He also recommended that the NEJAC establish a pollution victims compensation

fund to receive revenue from a pollution tax on all releases reported to the Toxic Release Inventory (TRI). Such a tax also would serve to encourage industries to reduce toxic discharges, he wrote.

2.26 Fred Lincoln, Wando Concerned Citizen Committee, Wando, South Carolina

Stating that he lives in a small African-American community, Mr. Fred Lincoln, Wando Concerned Citizen Committee, Wando, South Carolina, explained that the community has been inundated with pollution from chemical plants and steel mills. According to Mr. Lincoln, no environmental impact study was performed and no community hearing was held when a chemical plant recently was sited "right in the middle of the community." Currently, a railroad route is proposed that would run through the community, displacing 30 percent of the homes, he said. The community was not notified of the meetings held between the U.S. Army Corps of Engineers (USACE), EPA, and the port authority of South Carolina, he stated. Mr. Lincoln stated that EPA is supposed to protect citizens and that the community should have been notified about the railroad before the decisions became final. Members of the community are concerned that their community was chosen arbitrarily to be destroyed when there is vacant property nearby that could have been used to house the facilities, he said.

2.27 Adora Iris Lee, United Church of Christ Commission for Racial Justice, Washington, D.C.

Rev. Adora Iris Lee, United Church of Christ Commission for Racial Justice, Washington, D.C., submitted a written report to the Executive Council. For 60 years, the U.S. Navy has used the island of Vieques, Puerto Rico as a target range, causing human health problems and environmental degradation, she said. The United Church of Christ Commission for Racial Justice urged the council to investigate EPA's plans to cleanup the affected areas, investigate health-related problems in Vieques, and continue to deny the U.S. Navy permission to conduct bombing activity that results in discharges into the water, she stated.

2.28 Maria Elena Lucas, Farm Worker, Arlington, Texas

Ms. Maria Elena Lucas, farm worker, Arlington, Texas, stated that she has been a migrant farm worker all her life and that therefore she has suffered lifelong exposure to many chemicals and pesticides. In 1988, she continued, she experienced an accidental exposure that had a lasting effect on her memory and a variety of other neurological functions.

Ms. Lucas explained that she continues to have numerous problems. She stated further that hers is not an isolated case. She pointed out that migrant camps are located next to the fields on which pesticides are applied. Research on pesticides and exposure to pesticides has been insufficient, she said.

Mr. Garcia noted that Ms. Lucas was to attend the meeting of the International Subcommittee, and that she was to make a presentation to that body. He reiterated that there are thousands of cases like that of Ms. Lucas today.

Closing the public comment period for the evening, Mr. Turrentine referred to the videotape "Eyes on the Prize," noting that issues that were focused on during the civil rights movement are still at play today. It is troubling, he observed, that communities must come begging to the NEJAC to make their problems known, he said. He stated that the NEJAC must begin to realize results. Ms. Augustine stated that there is a need to evaluate whether the NEJAC is accomplishing its goals and whether the NEJAC is representative of the people it is supposed to represent. Mr. Cole then stated that such remarks should be presented to the Administrator to encourage EPA to begin to respond to the advice the NEJAC gives the Agency.

3.0 FOCUSED PUBLIC COMMENT PERIOD HELD ON MAY 24, 2000

This section summarizes the comments presented to the Executive Council during the public comment period on May 24, 2000, along with the questions and observations those comments prompted among members of the Executive Council.

Comments are summarized below in the order in which they were offered.

3.1 Mable Anderson, Village Creek Human and Environmental Society, Birmingham, Alabama

Indicating that she would discuss two issues, Ms. Mable Anderson, Village Creek Human and Environmental Society, Birmingham, Alabama, stated that she recently had returned to Alabama to lead her community in the battle against environmental injustice. She stated that water in Village Creek, polluted as a result of agricultural and industrial activities, tends to flood people's homes. In 1997, she said, the Federal Emergency Management Agency (FEMA) provided a buyout of \$5 million for relocation of 125 homes. However, she continued, people still have cancer, asthma, and

other health problems to deal with. Ms. Anderson complained that universities and other groups that study contamination in the community neglect to inform the community of the types of studies they are doing, charging that such groups do not know what the community's health problems are. Ms. Anderson informed the NEJAC that her organization needs funding to implement a health proposal developed by the community. She requested the NEJAC's help in funding such a proposal and informing other Federal agencies about it.

Ms. Anderson added that her organization also was requesting the NEJAC's help in conducting a creek-bank restoration project intended to improve water flow. One high school is located on the bank of the creek, and another is under construction on the bank, she stated. She noted that school authorities do not know that the waters are contaminated with agricultural and industrial wastes. Ms. Anderson stated that the community wishes to reclassify the area of the creek bed from industrial and agricultural use to residential use.

3.2 Karl Fuller, Pechanga Environmental Program, Temecula, California

Mr. Karl Fuller, Pechanga Environmental Program, Temecula, California, a resident of the Pechanga Indian Reservation, stated that a draft environmental impact statement had been prepared to build a landfill in Gregory Canyon, California. Five Indian reservations lie in the immediate vicinity of the proposed landfill site, he said. The landfill would affect Indian tribes disproportionately, he explained, because the tribes do not generate large amounts of waste; therefore, the effect the facility would have on the tribes cannot be justified, he declared.

Mr. Fuller pointed out that important village and ancestral sites of the Pala Band of Mission Indians are found in Gregory Canyon and Mount Gregory and that these sites are sacred for the Luiseno Tribe. The environmental impact statement addresses that issue to some extent, he said, and the proposed project includes the preservation of areas at relatively high elevations on Mount Gregory. However, Mr. Fuller explained, the sacred ceremonies are conducted at sites at all elevations, not solely at the top of the mountain. Odors and other undesirable effects of a waste facility would desecrate the site, no matter what efforts might be taken to mitigate those effects, he said.

Another issue the impact statement does not address sufficiently, he stated, are the potential effects the proposed landfill might have on groundwater in the area. Water from Gregory

Canyon, he continued, can be dispersed to many different water supplies, such as the San Luis Rey Water Basin. He explained that the mitigation measure intended to protect the water supply puts a limit on the quantity of water that the applicant is liable for if contamination should occur; he then expressed the opinion that the limit is too low. In conclusion, Mr. Fuller stated that enforcement also is included in the environmental impact statement as a mitigation measure, observing that enforcement is not an adequate form of mitigation.

3.3 Cecil Corbin-Mark, West Harlem Environmental Action, New York, New York

Mr. Cecil Corbin-Mark, West Harlem Environmental Action, New York, New York, stated that, despite substantial improvements in the nation's health, minorities still fare worse than their white counterparts. Disparities in health status persist, he explained, and communities of color suffer disproportionately from a variety of illnesses. Current disparities demonstrate the need for the development of strategies to address the health problems of minority communities, he said. He pointed out that the development of strategies to reduce such health disparities require that policymakers be educated about environmental conditions in minority communities and that the social environment of such communities be examined.

West Harlem Environmental Action has worked for the past five years to promote community-based research for the benefit of the Northern Manhattan Community Reserve, said Mr. Corbin-Mark. That effort is being accomplished through collaborative partnerships, he explained. The first study conducted by the group involved exposure to diesel fuel exhaust and lung function among adolescents in Harlem, he stated. The study, he pointed out, showed that 76 percent of participating students had been exposed to detectable levels of diesel fuel exhaust. By presenting air monitoring data to policymakers, the group hopes to help bring about a change in policies that affect air quality in minority communities, he explained. He noted that, after 13 years of fighting, New York City finally is beginning to use clean-fuel buses to reduce diesel exhaust. Mr. Corbin-Mark requested that the NEJAC examine some of the models produced under West Harlem Environmental Action's partnerships and call upon EPA to provide more funding for the research and approaches those models demonstrate. In addition, Mr. Corbin-Mark recommended that EPA reestablish the Community-University Partnership grant program.

3.4 Michael Lythcott, The Lythcott Company, Marlboro, New Jersey

Mr. Michael Lythcott, The Lythcott Company, Marlboro, New Jersey and Relocation Advisor for Citizens Against Toxic Exposure, Pensacola, Florida, provided the Executive Council of the NEJAC an update on the progress of the national Superfund relocation pilot project underway in Pensacola, Florida. Since the meeting of the NEJAC in Arlington, Virginia in December 1999, he said, representatives of EPA Region 4 have demonstrated due diligence in responding to and investigating every allegation and problem brought to their attention, he said. Mr. Lythcott then pointed out that the relocation differential payment remains a crucial issue. He explained that, after property has been appraised, the resident searches for a house at a comparable price in a clean neighborhood. Such houses almost always cost more than the appraised value of the contaminated property. There is money available to make up the difference between the appraised value and the cost of the replacement housing, he continued. However, he pointed out, owners who do not reside at the affected property are not eligible to receive any of that money. That policy, he said, is discrimination, noting that property owners, who do not live at the affected property, should not suffer financially because of relocation.

Mr. Lythcott also stated that some residents remain "trapped" at the Escambia Arms Apartment complex because they are unable to afford the move themselves, and EPA and the USACE will not offer those residents any help until Escambia Arms comes to agreement with the government. Escambia Arms Apartments are located in Pensacola, Florida, near the Superfund site associated with the abandoned Escambia Wood Treating Company. Residents there are living in toxic conditions, he stated, and they suffer from numerous health problems. In addition, he continued, babies are being born with birth defects. Mr. Lythcott requested access to the negotiations between Escambia Arms Apartments and EPA so that he can inform the residents of the status of the relocation process. He also requested that the NEJAC help him obtain a copy of a report being prepared by HUD on the living conditions in the apartment complex that is to be used in pressing for a quick settlement.

3.5 Lionel Dyson, Public Interest Law Center of Philadelphia, Philadelphia, Pennsylvania

Mr. Lionel Dyson, Public Interest Law Center of Philadelphia, Philadelphia, Pennsylvania, began his comment by declaring that the development of a substantive national environmental justice policy that

incorporates public health criteria is essential to bringing about meaningful change. The NEJAC's handout, *Community-Based Health Model Discussion*, he pointed out, states that one should not treat minority, low-income communities through an "all things being equal approach," stating that it is obvious that there is currently no equality in terms of the baseline health status of communities of color and low-income communities. Whether or not the substandard health of a community is a result of toxic exposures or inequities in socioeconomic opportunities and educational attainment is irrelevant, he pointed out. He explained that health considerations are linked inextricably to the search for solutions to problems related to environmental justice, he explained. Mr. Dyson stated that EPA's *Title VI Interim Guidance for Investigating Administrative Complaints Which Challenge Permitting Decisions* is fundamentally flawed because it excludes public health considerations.

The Law Center of Philadelphia has proposed an alternative policy called the Environmental Justice Protocol and tested that policy for the city of Philadelphia, continued Mr. Dyson. The protocol, he explained, requires the parametric mapping of four health criteria in Philadelphia: noncancer mortality, cancer mortality, infant mortality, and low birth weight. In addition, he continued, spacial analysis of demographic data is incorporated into the analysis. The rationale of the protocol is that, if certain population groups already are experiencing substandard health, those groups should not be subjected to further environmental depredation, he stated. He pointed out that, in Philadelphia, 94 percent of those living in the areas in which health statistics are poorest are minorities. Mr. Dyson stated that, if his organization can develop a health-based method for securing environmental justice in the city of Philadelphia, the EPA, with all of the available resources of the Federal government, should be able to devise a policy to ensure the protection of the entire nation. Mr. Dyson urged the NEJAC to take action now, stating that the integration of health considerations into an environmental justice policy begins with the NEJAC.

3.6 Daisy Carter, Project Awake, Coatopa, Alabama

Ms. Daisy Carter, Project Awake, Coatopa, Alabama, told the members of the Executive Council that her community needs help in acquiring funding to improve its water system. She stated that the county in which her community is located is the site of a large hazardous waste dump that has been receiving waste for more than 30 years from 50 states and 17 countries. Members of the

community are concerned that waste is leaking from trenches into the aquifer that provides the community's water, she explained, and the town is unable to purchase the equipment necessary to bring the water system up to date. Ms. Carter noted that she recently had called the appropriate state department about the water system, and that department had informed her that the system currently was being cited for a violation. Ms. Carter pointed out that the citizens of the community suffer from a variety of health problems, including rashes, cancers, and kidney problems.

Ms. Carter stated further that water from the aquifer is salty, which can lead to hypertension and high blood pressure in individuals who consume that water. Every citizen has a right to safe drinking water, she stated. She asked that the NEJAC provide her community with some financial assistance or advise the community about applying for a grant. Mr. Robert Varney, New Hampshire Department of Environmental Services, Concord, New Hampshire and member of the Enforcement Subcommittee of the NEJAC, stated that his department had worked with several communities to improve their public water systems. One source of funding, he explained, is the U.S. Department of Agriculture's rural development program, which provides grants and low-interest loans to communities. He added that low-interest loans also are available under the state revolving fund (SRF) low-interest loan program, which, he noted, is available in Alabama. Ms. Ramos asked Ms. Carter whether any agencies had tested the water in her community. Ms. Carter replied that members of the community had been buying test tubes and sending water for analysis themselves, but that no agencies had performed testing for them. Ms. Ramos declared that the issue was an urgent matter that EPA should address immediately.

3.7 Gary Grant, Concerned Citizens of Tillery, Tillery, North Carolina

Addressing the issue of cesspools in rural America, Mr. Gary Grant, Concerned Citizens of Tillery, Tillery, North Carolina, stated that vertically integrated industries raising confined animals are entering predominantly African-American communities in rural America. Many of those communities rely on well water, he said, and no guidelines are established to govern the digging of cesspools for the CAFOs. Waste from cesspools seeps into groundwater and eventually migrates to well water, explained Mr. Grant. North Carolina has no requirements governing the design of cesspools, he continued, and no permit is required for their use. The odor is offensive, and respiratory problems are

elevated in areas in which people live near CAFOs, he stated. The industry recently has learned how to mask the odor, he said, but members of the affected communities still must breathe the harmful airborne agents.

Mr. Grant stated that EPA is working to develop standard guidelines for cesspools. EPA, he noted, does not know what communities are being exposed to because "they don't live where we do," said Mr. Grant. He added that environmental justice issues are not confined to urban America alone; rural America has such issues, as well. Mr. Cole stated that Mr. Grant was to attend the meeting of the Enforcement Subcommittee on the following day; the subcommittee was scheduled to discuss the issue further, noted Mr. Cole.

3.8 Omar Freilla, New York City Environmental Justice Alliance, New York, New York

Mr. Omar Freilla, New York City Environmental Justice Alliance, New York, New York, stated that his organization focuses on low-income communities of color that suffer from asthma epidemics. He pointed out that low-income communities of color have some of the highest asthma rates in the country. Mr. Freilla noted that he would discuss two factors that are blocking the adequate assessment of environmental injustices in New York City.

First, Mr. Freilla stated, environmental impact studies performed in New York City do not take into account actual effects on a neighborhood. He pointed out that such studies consider environmental effects citywide, but not the local effects. Many projects are approved, he explained, because the focus of the study is much broader than on the actual area that would be affected. Mr. Freilla asked that the NEJAC encourage EPA in turn to urge New York City to address the issue adequately. An example of such problems, he continued, is the battle over interim garbage export contracts in New York City. Tens of thousands of trucks are proposed to export garbage from the city through primarily low-income communities of color, he explained. The impact study for the proposal examines the impact on the city as a whole, instead of the individual routes traveled, he pointed out.

The second issue, he continued, is that the metropolitan planning organization for the greater New York City area has failed to monitor compliance with Title VI. The agency has established no procedures for identifying disparate effects on low-income communities of color, he said. Each of the agencies that make up the organization is required to file its own Title VI report, he stated, but there is

no coordination among the agencies on the issue. The reports, he charged, are "completely vague" and are designed to create an impression that there is equity how the transit systems operate. Other problems in New York City that should be addressed include waste transfer stations and access to parklands, he explained, but those issues receive little attention from EPA Region 2. Mr. Freilla urged that the NEJAC advise Region 2 to improve its regulatory performance.

Ms. Miller-Travis suggested that Mr. Freilla reexamine the New York City Environmental Justice Alliance's research framework, stating that it is not only low-income communities of color that are affected by the placement of facilities, but all communities of color.

3.9 Mildred McClain, Citizens for Environmental Justice, Savannah, Georgia

Representing the People of Color and Disenfranchised Communities Environmental Health Network, Dr. Mildred McClain, Citizens for Environmental Justice, Savannah, Georgia, reminded the members of the Executive Council that she had spoken at the previous meeting of the NEJAC in December 1999 about Federal facilities. Environmental justice, she stated, calls for universal protection from nuclear testing and extraction, production, and disposal of toxic wastes and poisons that threaten the fundamental right to clean air, land, water, and food. Environmental justice demands an end to the production of toxins, hazardous waste, and radioactive materials, she continued, and all producers must be held strictly accountable for remediation. Workers have the right to a safe and healthy work environment without being forced to choose between an unsafe livelihood and unemployment, she added. Dr. McClain stated that victims of environmental injustice have the right to receive full compensation and reparations for damages, as well as quality health care.

Dr. McClain explained that there are African-Americans at the Savannah River site, one of 165 Federal facilities that must be cleaned up, who have been exposed excessively to contamination and are being denied the right to health care. She stated further that DOE had held a workers hearing at the Los Alamos National Laboratory that was attended by more than 400 people who had been exposed to contamination. Workers claimed that records had been falsified to cover up exposures at the facility. DoD and DOE should help to formulate policy, she declared.

Continuing, Dr. McClain stated that, to ensure that risk assessments are meaningful, the community should be involved from the initial stages and those performing the assessment should have an understanding of the health background of the community. Dr. McClain called upon the NEJAC to establish a subcommittee to address environmental justice issues at Federal facilities.

Mr. Lee stated that the Health and Research Subcommittee would serve as the point of contact for the NEJAC for issues related to Federal facilities and that OEJ will work with EPA's Federal Facilities Enforcement Office (FFEO) to follow-up on issues at facilities identified during public comment periods, he said. Federal facility issues fall within the responsibilities of several branches of EPA, he explained; it is necessary to coordinate plans with those offices before a working group or subcommittee is established.

Dr. McClain asked the Executive Council how community-based organizations can help to influence matters related to the issues that the NEJAC addresses at its sessions. Issues related to Federal facilities are discussed continually, she said, and it is made clear that the Health and Research Subcommittee is the point of contact, but people do not know how to influence what that subcommittee does and discusses during its meeting session. Ms. Shepard responded that such organizations as Dr. McClain's are influencing the process and that the Executive Council considers all the information it hears. Mr. Barry Hill, Director, EPA OEJ, noted that the commenters have been heard by the NEJAC and by EPA, and that the NEJAC will address the Federal facility issue.

Mr. Turrentine stated that the NEJAC takes under advisement all information it hears. He stated that it would be unfair to ask Mr. Lee or Mr. Hill to make a commitment about the formation of a Federal facilities subcommittee before they have the opportunity to speak with representatives of the various program offices within EPA that have an interest in Federal facilities.

3.10 Beverly Wright, Wampanoag Tribe of Gay Head, Aquinnah, Massachusetts

Ms. Beverly Wright, Wampanoag Tribe of Gay Head, Aquinnah, Massachusetts, informed the Executive Council that her tribe lives on Martha's Vineyard Island and has been Federally recognized since 1987. She explained that, with Federal recognition, the tribe had received money for education and health services and protection of natural resources. Between 1940 and 1994, she continued, the U.S.

Department of the Navy (Navy) conducted bombing practices on the Island of Normans Land located five miles off the coast of Martha's Vineyard. When the Navy decided it no longer wanted the island, she said, the tribe applied for access to it, but that access was denied because the U.S. Fish and Wildlife Service (FWS), DOI, wanted to use the island as a refuge. Ms. Wright pointed out that, under the Indian policy of the FWS, Native Americans are not to be denied access to their traditional homelands.

Last year, continued Ms. Wright, the state of Massachusetts performed a cancer study that indicated that residents of the reservation had a 93 percent higher cancer rate than other residents of Massachusetts. She stated that she would like to reassess the island, noting that she cannot prove that contamination on the island causes cancer, but stating she would like to determine whether that is the case. She asked the NEJAC for assistance in nominating the Island of Normans Land for a grant under CERCLA. She added that the reservation is building a fish hatchery to spawn a variety of species, noting that production of seafood is the basis of the tribe's economy. Contamination of the water, she explained, would create "a vicious cycle of cancer." Ms. Wright urged that the NEJAC help the tribe obtain funding, which is available because it is a Federally recognized tribe, to support a cancer study.

Ms. Miller-Travis noted that Ms. Wright would be attending the meeting of the Waste and Facility Siting Subcommittee to discuss how the NEJAC can provide assistance in resolving the issues Ms. Wright had raised. Ms. Miller-Travis stated that Mr. Timothy Fields, Jr., Assistant Administrator of EPA OSWER, who has responsibility for oversight of the implementation of CERCLA, would be present at that meeting, as well. Mr. Goldtooth mentioned that the Indigenous Peoples Subcommittee would be interested in working with the Waste and Facility Siting Subcommittee to ensure that the issue is pursued.

3.11 Grace Hewell, Health Policy Group, Chattanooga, Tennessee

Dr. Grace Hewell, Health Policy Group, Chattanooga, Tennessee, expressed her interest in learning how she can help the NEJAC solve civil rights issues. She stated that she has a variety of degrees in public health and social work and noted that much of the discussion during the meeting of the NEJAC had focused on community health. Dr. Hewell said that she had performed public health

work in many areas of the country, including Queens and Harlem, New York.

Dr. Hewell expressed her disappointment that the NEJAC has not yet accepted her long-standing invitation to hold a meeting in Chattanooga, Tennessee. She also requested that the NEJAC provide environmental health education in Chattanooga, since few people in that area are knowledgeable about that subject. Dr. Hewell then stated that people must be educated about environmental justice. With today's technology, she added, people must be given access to information. Mr. Cole stated that, in 1996, Dr. Hewell had requested that the NEJAC hold a meeting in Chattanooga. In 1997, he continued, the NEJAC passed a resolution to meet in Chattanooga, but a transition in leadership at OEJ had brought the NEJAC to Atlanta, Georgia, instead. Mr. Cole apologized to Dr. Hewell for the NEJAC's failure to schedule a meeting in Chattanooga.

3.12 Sandra Jaribu Hill, Center for Constitutional Rights, Greenville, Mississippi

Speaking on behalf of the Mississippi Workers Center, Ms. Sandra Jaribu Hill, Center for Constitutional Rights, Greenville, Mississippi, informed the Executive Council that she would discuss an issue that, she declared, has not yet been addressed adequately by government agencies. That issue, she said, is "dying to make a living." Every year, continued Ms. Hill, numerous workers in the United States are killed as a result of hazards in the workplace. She explained that, while some of those workers were victims of fatal accidents, many were poisoned by toxic substances. Segregated workplaces are found throughout the country, she pointed out, especially in the southern region, where workers of color often are assigned the dirtiest, most dangerous jobs.

Ms. Hill recounted a story about a man who worked at a Tyson Foods, Inc. poultry plant. When the worker, who used chlorine to clean processing machines, became sick and approached his supervisor, said Ms. Hill, the worker was told to quit if he did not like the work. The worker contacted the Occupational Safety and Health Administration (OSHA), which performed an on-site inspection. The worker later was fired, continued Ms. Hill. She added that, because of health problems that arose while he was working at the Tyson plant, the man involved currently is unable to work a steady job.

Ms. Hill then described another incident that occurred in 1992, when 25 workers were killed after a boiler exploded at a poultry plant located in

Hamlet, North Carolina. The fire doors had been locked to prevent workers from stealing chickens, she pointed out. When officials of the Food and Drug Administration (FDA), U.S. Department of Health and Human Services (HHS), inspected the plant before the accident occurred, workers had told them about the unsafe work conditions. The officials, however, were concerned only about the cleanliness of the plant, she said.

Ms. Hill recommended that the NEJAC facilitate the establishment of an EPA and OSHA task force to address the chemical poisoning of workers and environmental racism. Ms. Ramos stated that community leaders should be encouraged to file complaints with OSHA on behalf of mistreated employees. Ms. Hill responded that her community had filed complaints with OSHA, adding that workers do not have the right to sue an employer for compensation for injuries. In response to Ms. Augustine's question, whether Ms. Hill's organization works with welfare workers trained to work in hazardous conditions, Ms. Hill responded that the welfare workers are forced to work in toxic conditions without any hazardous waste training.

Ms. Augustine asked Mr. Turrentine whether, as an environmental issue, OSHA's failure to protect workers would fall under the jurisdiction of the U.S. Department of Labor (DOL). Ms. Hill responded that it would seem that the proper agencies with which to collaborate on the issue are EPA and OSHA, since they both acknowledge hazards that affect workers. Mr. Tseming Yang, Vermont Law School and member of the International Subcommittee of the NEJAC, noted that such issues are related to matters that were to be discussed during the meeting of the International Subcommittee; he therefore invited Ms. Hill to attend that meeting. Mr. Yang asked Ms. Hill whether the problem is lack of enforcement, lack of adequate laws, or lack of employee education. Ms. Hill responded that OSHA does not cover farm workers or domestic workers who work with dangerous cleaning materials. The number of OSHA inspectors is insufficient to assess sites, she stated, and enforcement is an issue, as well. Mr. Turrentine suggested that Ms. Hill join forces with a local or national labor union that has resources and capital to invest. Ms. Hill stated that her organization had been working with unions, but that government accountability is needed to protect workers.

3.13 James Hill, Scarboro Community Environmental Justice Network, Oak Ridge, Tennessee

Stating that he is president of the Oak Ridge Branch of the National Association for the Advancement of Colored People (NAACP), Mr. James Hill, Scarboro Community Environmental Justice Network, Oak Ridge, Tennessee, noted that the predominantly African-American community of Scarboro is located 500 yards from the Y-12 nuclear weapons plant. The state of Tennessee was called upon to investigate why so many children in the community were suffering from health problems, he stated, but that the state of Tennessee refused to take action. For the past two years, the Scarboro Community Environmental Justice Network has been meeting with local, state, and Federal officials to establish leadership in the community and to conduct health examinations, he said. The results of those examinations indicate that asthma rates are higher than the national average, he pointed out. The community currently is discussing with DOE the performance of additional soil sampling, since an initial sampling showed high levels of contamination in the community, he said. In addition, Mr. Hill continued, EPA had presented a sample plan to the community and provided the community an opportunity to comment on the plan. Mr. Hill stated that he wished to inform the NEJAC that many activities were underway in Scarboro, but that "there is no closure yet."

3.14 Mildred Colen, Private Citizen, Warren, Arkansas

Ms. Mildred Colen, a private citizen, Warren, Arkansas, stated that there are five lumber companies located in Warren, one of which is located adjacent to the residences of many families in the community. She explained that many people in the community had died of cancer, cardiovascular disease, or diabetes because they used water from contaminated wells. She pointed out that city water was not available to the community until the 1970s. For more than three decades, the lumber industry discharged and dumped its wastes on residents' property, she said. Recent sampling by EPA revealed the presence of 15 heavy metals in soil, including arsenic at a level of 17.2 parts per million, she said, pointing out that the maximum contamination limit is 0.05 parts per million. Other testing revealed the presence of nine volatile organic chemicals that are identical to chemicals used by the hardwood industry in the manufacturing of its products, she stated. The chemicals are known to cause cancer, kidney and liver problems, and

circulatory disorders, she said, but EPA tells the community there is no need for concern.

The Arkansas Department of Environmental Quality (ADEQ), EPA, ATSDR, and the Arkansas Department of Health are all aware that there is an illegal landfill created by the industry in the community, Ms. Colen said. Runoff from the landfill flows from a stream onto the properties of residents of the community, she stated. She stated that an investigator had examined the landfill after she had offered comments at an environmental justice enforcement roundtable meeting of the NEJAC in San Antonio, Texas in 1996. After the examination of the landfill in her neighborhood, she continued, and of another landfill in a white neighborhood, cleanup of the landfill in the white neighborhood was ordered within weeks.

Ms. Colen added that she since had filed two administrative complaints with EPA's OCR under Title VI. She noted that those charges were against the city of Warren for participating in the pollution of the neighborhood and ADEQ for issuing a permit under the National Pollutant Discharge Elimination System (NPDES) that authorized industry to discharge effluent onto private property without monitoring. Not only were the complaints denied, she said, but OCR also violated her privacy rights by turning the complaints over to the agencies against which she had filed them. Since then, she stated, she had experienced several forms of harassment. Ms. Colen asked the members of the Executive Council for any advice they could provide about her predicament.

Dr. Michel Gelobter, Rutgers University and chair of the Air and Water Subcommittee of the NEJAC, asked Ms. Colen what role EPA Region 6 had played during the proceedings she had described. Ms. Colen responded that representatives of Region 6 had visited her community several times to investigate conditions, but that no action had resulted from those visits. Dr. Gelobter suggested that Ms. Colen speak with him after the public comment session to determine how the Air and Water Subcommittee of the NEJAC can be of assistance to her community.

3.15 Caitlin Waddick, City Planning Program, Georgia Institute of Technology, Atlanta, Georgia

Speaking on behalf of her professor, Ms. Caitlin Waddick, City Planning Program, Georgia Institute of Technology, Atlanta, Georgia, introduced to the members of the Executive Council that program's research on multiple chemical sensitivity. She noted

that the Enforcement Subcommittee of the NEJAC had prepared a draft resolution on multiple chemical sensitivity that requested that EPA review a host of issues. Ms. Waddick stated that representatives of the university's city planning program had reviewed the resolution and suggested that Item 7 of the proposed resolution be amended to read as follows, "The EPA should devise and adopt a reasonable accommodation policy for affected persons who work and/or attend meetings held at or sponsored by the EPA. This should include the identification and provision of EPA work places and EPA meeting places which are non-toxic and suitable, a fragrance-free policy for EPA offices in internal and external meetings, and other actions to accommodate multiple chemical sensitivity, disabled workers, and meeting participants." (Appendix A of this meeting summary provides the full text of the resolution that was approved by the Executive Council on May 26, 2000.) For example, she stated, several people had been unable to attend the public comment period because the room was not fragrance-free.

Ms. Waddick stated that studies indicate that multiple chemical sensitivity in the United States could affect from 16 to 32 percent of the population. Such persons are so sensitive to chemicals that the condition is very disruptive in their lives, she said. Ms. Waddick stressed the importance of passing the resolution on multiple chemical sensitivity. Action should be taken now, she said, to prevent more individuals from becoming sensitized to chemicals. She explained that people can become sensitized by exposure to pesticides, indoor air pollutants, and new carpeting, for example. Mr. Cole stated that Ms. Waddick should give any recommended changes in the resolution to him, so that the members of the Enforcement Subcommittee can discuss those changes during their meeting.

3.16 Pat Hartman, Concerned Citizens of Mossville, Westlake, Louisiana

Ms. Pat Hartman, Concerned Citizens of Mossville, Westlake, Louisiana, stated that, a few years earlier, the city of Mossville had experienced a toxic spill that caused several illnesses and deaths among members of the community. The people of Mossville filed a class action lawsuit, she said, but she characterized the settlement reached as unfair. In addition, there are refineries throughout the community that contaminate the land, air, and water, she said. State and Federal agencies have not provided any assistance, she stated. Many people in the community continue to be sick, she explained, from cancer and other illnesses resulting from the spill. Ms. Hartman asked that the NEJAC help the people of Mossville in their effort to have a health

clinic established in their community. Doctors do not understand that the illnesses are caused by chemical contamination, and they prescribe medication that is unaffordable, she explained. Ms. Hartman noted that the community has united with other minority communities in Louisiana and around the country to address the environmental injustices that occur in their respective communities. Ms. Shepard stated that residents of Mossville were to meet with members of the Health and Research and Waste and Facility Siting subcommittees to discuss the issues further on the following day.

3.17 Pat Costner, GreenPeace International, Eureka Springs, Arkansas

Dr. Pat Costner, GreenPeace International, Eureka Springs, Arkansas, introduced Mr. Damu Smith, GreenPeace International, Washington, D.C., and stated that Mr. Smith would present the opening comments of her presentation. Mr. Smith reminded the Executive Council that, at the December 1999 meeting of the NEJAC, he had discussed an investigation of dioxin exposure that ATSDR had conducted in Mossville. ATSDR had completed that investigation, he said, adding that Dr. Costner would provide a critique of the scientific evidence related to the dioxin crisis.

Dr. Costner stated that the 28 people who were tested in Mossville during the investigation had levels of dioxin and PCBs in their blood at three times the background level for the population of the United States. Those levels fall within the range at which adverse health effects have been identified in both laboratory animals and humans, she said. That finding suggests that there are unique local sources of dioxin and PCBs in Mossville, she added. ATSDR also analyzed a sample of breast milk that contained levels of dioxin and PCB that were 30 percent higher than average, she pointed out. In addition, she said, dioxin levels in soil in people's yards in Mossville are 17 times higher than levels found in rural areas of the United States. On the basis of those findings, she continued, the citizens of Mossville recommend that the NEJAC make it a priority to identify and eliminate the source of contamination of dioxin and PCBs in Mossville. Not only must the facilities be dealt with, she declared, but the dumps and landfills also must be remediated.

3.18 Charlotte Keys, Jesus People Against Pollution, Columbia, Mississippi

Stating that she has personal experience with local public health issues arising from exposure to contamination, Ms. Charlotte Keys, Jesus People Against Pollution, Columbia, Mississippi, stated that

the only true remedy for many such issues is to bring all agency resources together. She pointed out that sites being remediated under the Resource Conservation and Recovery Act (RCRA) and Superfund, Federal facilities, pesticide sites, and similar sites often are the source of the same public concerns. Most of the sicknesses in minority communities result from environmental pollution, not poverty, she noted. Ms. Keys recommended that the NEJAC work to enact or enforce existing policies to make it mandatory for agencies to foster partnerships with communities to develop corrective measures through a joint effort involving all agency resources. DoD, DOE, HUD, HHS, the U.S. Department of Transportation (DOT), EPA, and other agencies should resolve public health issues through the use of existing funds and develop new funds so that communities can receive health care services, she said. In addition, she continued, medical professionals should undergo training in the effects of toxic contaminants on health so that they can make accurate diagnoses of illnesses related to exposure to contamination.

3.19 Ian Zabarte, Western Shoshone National Council, Indian Springs, Nevada

Mr. Ian Zabarte, Western Shoshone National Council, Indian Springs, Nevada, stated that environmental racism in policy practiced by agencies of the government, such as the U.S. Department of Justice (DOJ) and EPA, is killing the Western Shoshone people. The Western Shoshone have filed documents in U.S. courts that present an analysis and critique of Federal plenary power over Indians, he said. The doctrine of U.S. Federal trusteeship that is asserted over American Indians originated in an era of racial discrimination, he explained, and is unacceptable in modern society. The Federal government asserts that it has plenary power and trusteeship over the Western Shoshone, he said. From the government's perspective, he said, such a position means that the government can exert unlimited administrative control over the Western Shoshone people and their property. The policy destroys the Western Shoshone language, culture, and tradition, he pointed out. The Federal government maintains that Western Shoshone territory was taken, and that money has compensated them for such taking, but at no time have the Western Shoshone relinquished title to their lands, he added. Further, they have refused payment for claims on their territory, said Mr. Zabarte. The foundation cases of U.S. Federal Indian law are grounded on principles of supremacy that date back to the 15th century, he stated. Mr. Zabarte pointed out that the cases that the United States uses to justify its policies are based on distinctions between Christians and heathens that

penalized Indians for not believing in Christianity. Today, that unjust posture of Christian right continues to influence the government's dealings with Native Americans, he stated, and is used to justify the ongoing theft of land and natural resources.

Mr. Zabarte noted that the United States has detonated 924 nuclear weapons within Shoshone territory and buried 828 such weapons underground. Radiation is entering the groundwater, he said. Native Americans also have been targeted for a proposed high-level nuclear waste repository at Yucca Mountain, Nevada, he added. Mr. Zabarte stated that Native American communities have compiled research to deal with such problems and representatives of those communities were to present that research at the meeting of the International Subcommittee.

3.20 Michelle Xenos, Shundahai Network, Las Vegas, Nevada

Ms. Xenos explained that the definition of health discussed during the public comment periods had excluded mental and spiritual health. Mental and spiritual health are equally important, she pointed out, and manifest physical health. People are linked with other people and their environment, she continued; what happens to one person affects other people, as well. Ms. Xenos noted that the people of her community believe there are flaws in the methodologies used in the conduct of health studies and that people have difficulty accepting the way the results of such studies are interpreted. She stated that a profit-driven society will not be healthy, because profit is generated through exploitation of the earth. Not only is the environment exploited, she continued, but Native Americans and African-Americans also are mistreated. Ms. Xenos stated in conclusion that EPA and the NEJAC should protect the resources that create profit.

3.21 David Baker, Community Against Pollution, Anniston, Alabama

Thanking the NEJAC for visiting Anniston on its fact-finding tour the day before, Mr. David Baker, Community Against Pollution, Anniston, Alabama, stated that three and one-half million tons of PCBs currently are buried in the neighborhood of Anniston, Alabama. A number of industries have assaulted that city, he said. The community has been working with EPA, he continued, and the results to date had been satisfactory. Mr. Baker stated that, on the preceding day, a judge in one of the litigation cases had informed Monsanto Company that the corporation must alleviate the contamination in Anniston, he stated. Yet, three and one-half million

tons of PCBs remain buried in the community, he reiterated. The community requested that EPA relocate people or remove the mountain of PCBs, he stated. Mr. Baker asked for the assistance of the NEJAC in addressing the issue, adding that the community also needs assistance in arranging the establishment of a health clinic.

3.22 Natalie Leverette, PEACE, Richton, Mississippi

Ms. Natalie Leverette, PEACE, Richton, Mississippi, stated that all the households in her predominantly black community experience some type of health problem. Members of the community had requested information from DOE about the chemical companies in the community, believing that those facilities could be causing the health problems, she explained. The community discovered that wells in their neighborhoods were contaminated with high levels of chloride, sodium, strontium, and boron, she said. Members of the community reviewed some water reports of the U.S. Geological Survey (USGS), DOI, she continued, and discovered that their wells consistently showed high levels of contamination year after year, while wells in nearby neighborhoods did not show any contamination. The chemical companies and DOE both deny any involvement in the contamination of their community, she stated.

Ms. Leverette mentioned that the community also had discovered that their water supply comes from a separate system from that supplying other communities nearby. In 1993, she continued, the community learned that there were traces of arsenic in the water, but the state environmental department of Mississippi denied that finding, she said. The contaminated well recently had been sealed, she stated. Ms. Leverette requested that the NEJAC arrange for EPA to help the community test the sealed well to identify contaminants its citizens have been exposed to. In addition, she said, the community needs health facilities to address the medical problems of its people.

3.23 Nan Freeland, Natural Resources Leadership Institute, Raleigh, North Carolina

Ms. Nan Freeland, Natural Resources Leadership Institute, Raleigh, North Carolina, expressed concern about fish consumption advisories and how they are related to environmental justice. In North Carolina, she stated, fish consumption advisories rarely are posted in areas in which poor people and African-Americans will see them. Advisories typically are posted in areas to which people who have fishing boats go, she explained, but rarely in areas in which

people fish without boats. Children often play in the water, as well, she stated, adding that fish advisories sometimes are not posted until after dead fish have been found. Streams and tributaries affected by advisories often run through communities, she pointed out, but the advisories are not placed in communities in which people work and live. North Carolina has had a significant problem with pollution of streams and rivers, she stated, and it is important that fish consumption advisories be posted. Fish are dying and disappearing in places in which they once were plentiful, she said. Ms. Freeland stated that, when fish consumption advisories are issued, they should be highly publicized, not merely posted in recreational areas. Citizens also should be educated about what fish advisories mean, she said. Dr. Gelobter pointed out that Ms. Freeland was to attend the meeting of the Air and Water Subcommittee on the following day. He added that such issues are relevant in Indian country, as well.

3.24 Connie Tucker, Southern Organizing Committee for Economic and Social Justice, Atlanta, Georgia

Ms. Connie Tucker, Southern Organizing Committee for Economic and Social Justice, Atlanta, Georgia, explained that on May 5 and 6, 2000, representatives of 15 communities in EPA Region 4 attended a citizens training forum. The goals of the forum were to educate citizens about the structure of the NEJAC, discuss public health issues that affect low-income and minority communities, and discuss recommendations related to policy for addressing public health issues, she said. The forum focused on a community-based public health model to elicit the views of representatives of affected communities, she stated. A planning committee subsequently was formed to identify major issues and policy recommendations gathered during the forum, she said. The major issues identified, she pointed out, were children's health, air and water pollution, Superfund and brownfields sites, Federal facilities, and commercial agriculture. The planning committee is preparing a document that sets forth policy recommendations on assessment, intervention, and prevention. The document will be presented to the NEJAC when it is completed, she stated.

Ms. Tucker suggested to the Executive Council that each region that hosts a meeting of the NEJAC should provide funding for environmental justice organizations to conduct similar forums so that those organizations can present a list of recommendations to the NEJAC before the meeting begins. She added that EPA should provide adequate funding to foster community participation and allow

communities to obtain technical assistance. Ms. Tucker also stated that the NEJAC should develop a process for reviewing and adopting recommendations provided during public comment periods. Concluding her statement, she requested that the NEJAC begin to concentrate on the failure of EPA to provide oversight of enforcement and compliance responsibilities delegated to states.

3.25 Edgar Moss, McIntosh Environmental Justice Taskforce, Inc., Atlanta, Georgia

Noting that he was a retired worker for Ciba-Geigy Chemical Corporation, Mr. Edgar Moss, McIntosh Environmental Justice Taskforce, Inc., Atlanta, Georgia, stated that the African-American community of McIntosh is located on the fence line of facilities of the Ciba-Geigy and Olin Corporation Chemical Divisions. Ciba-Geigy produces pesticides that cause cancer and developmental problems in children, he explained. He pointed out that the companies contaminated the basin of the Tombigbee river, creating a Superfund site. Mr. Moss indicated that the rates of cancer and other illnesses are high among workers in the community, and children suffer from learning disabilities. He pointed out that no state or Federal agencies have intervened or provided help to the community. Mr. Moss requested that the NEJAC intervene and investigate the need for relocation in McIntosh.

3.26 Usha Little, Native American Environmental Protection Coalition, Valley Center, California

Noting that some of her colleagues had spoken previously about the Gregory Canyon Landfill, Ms. Usha Little, Native American Environmental Protection Coalition, Valley Center, California, informed the Executive Council that the proposed landfill would cover 1,770 acres of canyon land, part of which is the watershed of the San Luis Rey River, which replenishes groundwater sources in southern California. The habitat includes a diverse population of native plants and animals, she stated, and the area is adjacent to the lands of six Indian tribes. The landfill site would have a significant effect on the livelihood of a minority population whose voices are unheard, and whose resources are already limited, she explained.

The site proposed for the Gregory Canyon Landfill is Medicine Mountain, which is a Native American place of worship, she stated. Medicine Rock, a location on the mountain, has been a part of Indian culture through many generations, she said, adding that it is a place where Native Americans can connect with their ancestors' religious and spiritual

knowledge. There are 22 prehistoric and historic sites on the mountain, Ms. Little added, and three types of vegetation present there are listed in the California Environmental Quality Act. She pointed out that traffic will increase significantly, and air pollution will affect six reservations. Ms. Little requested that the NEJAC contact and advise the agencies responsible for issuing the landfill permit. She closed her statement by reiterating that the Gregory Canyon Landfill is an environmental and cultural disaster, and is a desecration in the eyes of Native American people. Ms. Little submitted a videotape to the NEJAC that documented comments from tribal leaders and community members who had been unable to attend the meeting. Mr. Goldtooth noted that the Waste and Facility Siting and the Indigenous Peoples subcommittees would follow-up on the issue.

3.27 Hazel Johnson, People for Community Recovery, Chicago, Illinois

Pointing out that she is a former member of the NEJAC, Ms. Hazel Johnson, People for Community Recovery, Chicago, Illinois, stated that her community is affected by heavy toxic contamination. Instead of asking the state or the health department to perform a health study, Ms. Johnson said, she is requesting that the NEJAC help train residents to conduct their own health study. Residents then would not be concerned about being misled by the government, Ms. Johnson explained.

After PCBs were discovered in the community, its citizens filed a class action lawsuit against the public housing authority because the authority had neglected to inform residents of the toxic living conditions before they moved in, she said. Several people in the community are dying of a variety of illnesses, she explained, and health care is too expensive for residents of the community to afford. Similar problems are occurring around the country, she stated, and it is time that agencies take action. Ms. Johnson also requested that the NEJAC help provide training for medical personnel because they are not skilled in diagnosing illnesses caused by toxic contamination.

3.28 Mark Mitchell, Connecticut Coalition for Environmental Justice, Hartford, Connecticut

Mr. Mitchell stated that his organization had performed some community-based, community-driven research on contamination in Hartford, Connecticut. Hartford has the highest documented rate of asthma in the United States, as demonstrated by a study conducted by the Connecticut Children's

Medical Center that indicated that 41 percent of the city's children have asthma, he said. Mr. Mitchell pointed out that it is important to examine the high rates of asthma and the relationship of such rates to air toxins. Trash and sewage sludge in the community account for 2,000 tons of air toxins a year that are not reported to the TRI, he stated.

Mr. Mitchell informed the Executive Council that his organization had documented a new kind of medical condition called chronic recurrent respiratory ailment that occurs in Hartford and other urban areas around the country. Such respiratory illnesses, he explained, have symptoms similar to those of minor colds and last several months. Studies show that the incidence of the condition is not distributed evenly through the city, he said, adding that it is concentrated in areas in which rates of air pollution are higher than those in areas in which the incidence is relatively low.

Mr. Mitchell stated that asthma is a two-step process that involves an initiator and a promoter. Toxins are the initiators, he explained, and other air pollutants, such as allergens or dust mites, are promoters of asthma, once it has developed. Mr. Mitchell stated that hormonal mimics, such as PCBs and dioxins, should be studied because they may cause allergies and autoimmune conditions. Mr. Mitchell stated that community-based organizations should be represented on NEJAC subcommittees. He added that people should be tested to determine whether there is a relationship between the increase in chemical contaminants and the increases in disease rates. Such testing should focus on health outcomes, rather than engineering controls, he said, and diseases related to environmental conditions must be addressed.

3.29 MaVynee Oshun Betsch, A.L. Lewis Historical Society, American Beach, Florida

Ms. Betsch informed the Executive Council that there are three dump sites in Jacksonville, Florida that should be addressed by EPA. Representatives of Jacksonville had been unable to attend the meeting, she stated, but the information they wished to bring to the attention of the NEJAC had been provided to the Executive Council.

Continuing, Ms. Betsch stated that she is a survivor of environmental injustice. She then recommended that the NEJAC form a work group of people who have survived such injustice. She stated that she once lived in London, England where the air pollution caused by coal-fired plants was so heavy that she had found it necessary to wear surgical masks. Ms. Betsch explained that she lives a very healthy

lifestyle, even though she has colon cancer. She pointed out that illnesses caused by contamination can be treated with the right diet and medications. People should listen to folklore, she stated, because there is a chance that folk remedies can cure their ailments. She pointed out that understanding the culture of a community and talking to members of communities on their level will enhance the ability to treat their ailments.

3.30 Damu Imara Smith, GreenPeace, International, Washington, D.C.

Mr. Smith discussed environmental justice issues affecting the community of Mossville, Louisiana that were to be addressed during the scheduled joint meeting of the Waste and Facility Siting Subcommittee and the Health and Research Subcommittee. He noted that, while the meeting would focus on the health and dioxin crisis in Mossville, he also wanted the NEJAC to examine the policy implications of the government's dealings with the community. It is important to examine Mossville's situation to determine how other communities in similar circumstances would be dealt with, he stated. Mr. Smith noted that his organization would demonstrate the seriousness of the dioxin crisis in Mossville and discuss the responses of state and Federal agencies. State and Federal agencies have taken a series of actions to frustrate the communities' efforts to obtain environmental justice and to undermine the work of Mossville Environmental Action Now, the organization that has been mobilizing the community for three years, he stated. Mr. Smith requested that the Executive Council provide advice on the most effective way to follow-up health studies. In addition, he continued, the communities would like to address the proper role of Federal agencies in cases in which state agencies fail to act.

3.31 Elizabeth Crowe, Chemical Weapons Working Group, Berea, Kentucky

Noting that there were some points that had been missed in discussions of community-based health assessments, Ms. Crowe pointed out that there had been no mention of alternative assessment in discussions of shifting the burden of proof to industry and the military. A justice-based, community-based health assessment is not feasible until EPA and other agencies stop presuming that industries are innocent until proven guilty, she stated. It should be assumed that chemicals are harmful, she explained, until industry can prove otherwise. A precautionary principle states that, when science cannot fill data gaps, even because of a lack of evidence, it is imperative to err on the side of precaution and public

health, she said. A protective model linked with a precautionary principle is the alternative assessment that, if implemented, dictates that, if an action is too dangerous it will be unacceptable from a public health standpoint, she explained. Lacking such an assessment, she continued, EPA provides little incentive for the development and use of cleaner technologies. Ms. Crowe then stated that, in the case of the issue of community health assessment, the burden of proof continues to be placed on communities like Mossville. The people of such communities are the people who are dying, she declared, and they should not be expected to prove that they are being harmed.

3.32 Jim MacDonald, Pittsburg (California) Unified School District, Pittsburg, California

Mr. MacDonald stated that EPA has made many decisions that make environmental justice impossible. Industry can bypass most of the programs instituted by EPA simply by saying that it is not creating adverse effects, he explained. The argument about cause and effect can go on for years, he said. EPA must recognize that environmental justice is a civil rights matter, he stated, and that everyone has the right to breathe the same quality air. The placement of industry in African-American neighborhoods is brought about by the same mechanism that caused the segregation of public education, he said. Zoning practices arose from racism and discrimination, he stated.

Mr. MacDonald pointed out that a minority of people “run this country” because so many individuals choose not to vote. City councils have more control than most people understand, he said. It is important that communities understand their city council, because those bodies often are controlled by big business and commercial interests, he stated. Mr. MacDonald suggested that, before voting for politicians, people should ask those politicians whether they intend to support new industries or sources of pollution if they are elected.

3.33 Donnel Wilkins, Detroiters Working for Environmental Justice, Detroit, Michigan

Noting that EPA's mission ensures the protection of health, Ms. Donnel Wilkins, Detroiters Working for Environmental Justice, Detroit, Michigan, recounted the story of a 15-year-old girl who died of an asthma attack. A common-sense approach must be taken to address the health effects on communities and the issues of concern to those communities, she said. She suggested that a remedial education project should be developed that includes representatives of local, state, and Federal agencies,

and of communities, as well. There is an assumption, she continued, that communities do not understand the issues they face, and there is disregard for the knowledge members of communities possess. Existing laws should be enforced, and health must be placed first in importance, she stated. Also needed is a reversal in the trend that places the burden on communities to prove that health disparities exist, she added.

Ms. Wilkins discussed a recent battle against a hospital in her community that had a medical waste incinerator that was not in compliance with applicable regulations. The community learned that rates of asthma were higher in areas adjacent to the facility, and it was successful in shutting down the facility, she explained. Before that was done, she stated, the community was required to prove that the health problems of its members were linked to emissions from the incinerator. Ms. Wilkins pointed out that the answers to some environmental problems exist, but more interaction among agencies and sharing of resources are necessary to effectively implement such solutions. She noted as well the need for a better understanding of cumulative effects and the health risks they pose.

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