

**SUMMARY OF THE MEETING OF THE
NATIONAL ENVIRONMENTAL JUSTICE
ADVISORY COUNCIL**

**Gulfport, Mississippi
March 16 and 17, 2016**

PREFACE

The National Environmental Justice Advisory Council (NEJAC) is a federal advisory committee that was established by charter on September 30, 1993, to provide independent advice, consultation, and recommendations to the Administrator of the U.S. Environmental Protection Agency (EPA) on matters related to environmental justice.

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

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

EPA's Office of Environmental Justice (OEJ) maintains summary reports and/or transcripts of all NEJAC meetings, which are available on the NEJAC Web site at <https://www.epa.gov/environmentaljustice/national-environmental-justice-advisory-council>. Copies of materials distributed during NEJAC meetings are also available to the public upon request. Comments or questions can be directed via e-mail to nejac@epa.gov.

NEJAC Executive Council Members in Attendance

Margaret J. May, NEJAC Chair, Executive Director,
Ivanhoe Neighborhood Council
Javier Francisco Torres, NEJAC Vice Chair, Border
Environment Cooperation Commission
Teri Blanton, Kentuckians for the Commonwealth
Kerry Doi, Pacific Asian Consortium in Employment
(PACE)
Ellen Drew, Rural Communities Assistance
Corporation
Michael Ellerbrock, Virginia Polytechnic and State
University
Lisa Finley-DeVille, Mandan, Hidatsa & Arikara
(MHA) Nation Tomorrow
Savi Horne, Land Loss Prevention Project
Cheryl Johnson, People for Community Recovery
(PCR)
Melissa McGee-Collier, Mississippi Department of
Environmental Quality
Vernice Miller-Travis, Maryland State Commission on
Environmental Justice and Sustainable Communities

Richard Moore, Los Jardines Institute
Edith Pestana, Connecticut Department of Energy &
Environmental Protection
Cynthia Rezentes, Mohala I Ka Wai
Dennis Randolph, Public Works, City of Grandview,
Missouri
Deidre Sanders, Pacific Gas and Electric Company
Fateme Shafiei, Spelman College
Nicky Sheats, Thomas Edison State University
Paul Shoemaker, Boston Public Health Commission
Horace Strand, Chester Environmental Partnership
Mily Trevino Saucedo, Alianza Nacional de
Campesinas
Sacoby Wilson, Maryland Institute for Applied
Environmental Health
Jill Witkowski Heaps, Choose Clean Water Coalition
(by telephone)
Beverly Wright, Dillard University
Kelly Wright, Shoshone-Bannock Tribes

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

Gulfport, Mississippi
MARCH 16 and 17, 2016

MEETING SUMMARY

The National Environmental Justice Advisory Council (NEJAC) convened on Wednesday, March 16, 2016 and Thursday, March 17, 2017 in Gulfport, Mississippi. This synopsis presents highlights of the NEJAC members' deliberations during the 2-day meeting, including action items, requests, and recommendations; and briefly summarizes the issues raised during the public comment period.

1.0 Welcome and Introductions

The National Environmental Justice Council (NEJAC) convened in Gulfport, Mississippi at 9:15 a.m. **Matthew Tejada**, the Designated Federal Officer, noted that there was a quorum of members present and handed the meeting over to **Margaret J. May**, Chair. Members introduced themselves and their affiliations.

1.1 Dialogue with the U.S. EPA Administrator

Heather McTeer Toney introduced U.S. EPA Administrator **Gina McCarthy**. The EPA's new "Making a Visible Difference" program looks to strengthen its message through partnerships with the public health community. By doing so, the EPA hopes to highlight the public health consequences of deteriorating environmental conditions and to form mutually beneficial partnerships with public health organizations. The World Health Organization recently corroborated this approach, releasing a report that highlighted the number of people who die from environmental exposures.

Minority or low-income communities suffer the most from environmental exposures. Administrator McCarthy said that the EPA still has a lot of work to do to address this issue. The water crisis in Flint, Michigan epitomizes many of these issues. Even though progress has been made towards alleviating the problems there, the community needs to be given a political voice going forward. She vowed that the EPA will do everything in its power to ensure that poverty does not prevent a community from receiving necessary environmental protections, as it did in Flint. Accordingly, the Environmental Justice 2020 (EJ 2020) plan will be adjusted accordingly as issues like this one come to light.

Beyond writing national rules for environmental impacts, the EPA has been working to increase its visibility in the realm of interagency interactions as well as in the public's eye. Mustafa Ali, the Senior Advisor to the EPA Administrator, has worked hard to invigorate the Environmental Justice Interagency Workgroup under President Obama, ensuring that environmental justice is a common aim across federal agencies.

Last month the EPA launched the Drinking Water Mapping Application to Protect Source Waters (DWMAPS).

Administrator McCarthy ended her comments by thanking NEJAC for the work it's done on the Clean Power Plan. She assured members that, despite the Supreme Court's decision, the Clean Power Plan will pass rigorous legal testing and that it will survive to be put into action. She emphasized the importance

of continuing to work hard in the final ten months of the Obama administration to bring current projects to fruition.

Deidre Sanders, Pacific Gas & Electric Company, voiced concerns over a lack of evaluation by the EPA around concurrent, conflicting policies, especially surrounding Smart Growth and Sustainable Communities. Efforts to reduce sprawl and to reduce vehicle miles traveled are not being brought to the local city planning level and are therefore not as effective as they could be. Administrator McCarthy agreed, replying that the EPA has been trying to work with HUD and DOT to address these issues. The inertia against changing longstanding habits is the biggest impediment.

Richard Moore, Los Jardines Institute, asked where, in the administrator's opinion, the EPA is on inherently safer technologies. The administrator noted that new rules concerning inherently safer chemicals had been recently published for comment in the Federal Register, in response to incidents in west Texas among other places. The EPA has been preparing for a conversation about the problems posed by researching and implementing inherently safer chemicals during the planning process, especially in Local Emergency Planning Committees (LEPCs).

Dennis Randolph, Public Works City of Grandview, Missouri, commented that in his opinion state regulators are at the heart of the problem in the Flint water crisis because they don't have any contact with those whom they regulate.

Nicky Sheats, Thomas Edison State University, pointed out that participation in communities is a necessary but insufficient condition for environmental justice to be served. He went on to ask whether Flint would provide a sufficient basis for formal rulemaking with regards to EJ communities, where they would be identified and policies that would protect them would be promulgated.

Mily Trevino Saucedo, Alianza Nacional de Campesinas, asked what level of stakeholder input would be involved in the implementation of the new Worker Protection Standards. Farm worker groups need to be included in the EJ communities' discussion. She also noted that pesticide labels need to be better translated into Spanish and that warning labels about how individual chemicals react to heat stress should be considered.

Vernice Miller-Travis, Maryland State Commission on Environmental Justice and Sustainable Communities, protested the continued lack of enforcement of civil rights issues by the EPA, noting the numerous Title VI complaints that had been filed with the agency going back 22 years. She accused the EPA of promulgating specious legal theory and chastised the agency for not doing enough to recognize that civil rights issues required specific attention apart from environmental issues.

Melissa McGee-Collier, Mississippi Department of Environmental Quality, pointing out that poor infrastructure is an issue not just in Flint, Michigan, but all over the U.S., asked if the EPA Water Infrastructure and Finance Innovation Act established a timeline for funding municipalities to address such issues.

Teri Blanton, Kentuckians for the Commonwealth, assured the administrator that student and community groups in Kentucky stood behind the Clean Power Plan.

Cheryl Johnson, People for Community Recovery, commented that public housing developers are being allowed to construct housing that uses substandard materials in terms of energy efficiency.

The Administrator responded to each of the participants in a general comment. As far as the Flint water crisis is concerned, the Lead and Copper Rule needs to be more robust, as well as other acts. She agreed with Dr. Sheats that the issues in Flint went beyond community participation and that the EPA could be more transparent in terms of testing protocols and results within communities with EJ concerns. In response to Ms. Trevino Saucedo, she assured her that there is an interagency task force in place working on some of the issues she raised. In response to Vernice Miller-Travis, the Administrator acknowledged deficiencies in the Civil Rights Office and resolved to work on reforms in the future. As for Ms. Blanton's comment, the Water Infrastructure Finance and Innovation act may leverage up to a billion dollars in water infrastructure funding in the 2017 budget.

1.2 Community Recovery and Revitalization: The Resiliency of the Gulf of Mexico

Bishop James Black, Center for Environmental and Economic Justice, praised the residents of the Gulf Coast for their ability to spring back from disasters and trying environmental conditions, like yearly flooding. But despite their resiliency in these areas, a lack of governmental support has prevented impoverished communities from making a full recovery. During Hurricane Katrina or during the BP oil spill, some residents simply did not have sufficient resources to leave the area for a more viable location. Things are not improving. The \$500 million which HUD gave for housing improvements to the state was instead used to make improvements related to industry. A joint study among several prominent universities revealed some of the physical and psychological states of the residents after these disasters. Bishop Black highlighted the prevalence of depression. He sees a deep need in these affected communities for guidance in strategic pre- and post-disaster planning.

Melanie Baldwin, City of Prichard, noted that her city might be on an alternate side of the area's recovery, as the city of Prichard was one of the recipients of a Sustainable Communities Technical Grant. Despite being historically disenfranchised, such grants give city residents some of the economic opportunities they need to recover. Above and beyond funding, seminars and other educational tools are necessary to inform the local community about issues such as brownfields or that the presence of methyl mercaptan is causing illnesses. Ms. Baldwin suggested that more cities on the Gulf Coast need staff to serve as technical coordinators facilitating the proliferation of funding and educational tools in these communities.

Councilwoman Ella Holmes-Hines, Gulfport City Council, welcomed the NEJAC to Gulfport on behalf of the local government. She lamented that a history of racist practices that has negatively impacted her community. She also emphasized how disconnected federal agencies are from the local communities they are attempting to support. She affirmed the previous two speakers in commenting how adversely the volatile weather of the Gulf Coast impacts Gulfport residents.

Thao Vu, Mississippi Coalition for Vietnamese-American Fisher Folks and Families, explained how Mississippi's status as one of the most impoverished states in the nation means that there is a lot of work to do there at all levels of government. The fisher folk community tends to have language access issues among other disadvantages that make recovery difficult despite the economic benefits fishing provides to the state. Because these Gulf Coast communities rely on equipment like boats and docks,

they are particularly vulnerable to oceanic disturbances like oil spills and hurricanes. “Resiliency” has been an overused term that organizations often use as an excuse for their negligence. She criticized the Federal Register comment process as being inaccessible and opaque to EJ communities, because it relies on literacy in federal procedures as well as computer access. Even though viable plans for community assistance have been outlined, they have not been implemented, in part due to the difficulty of interagency communication.

Patricia Whitney, Bayou History Center Incorporated, stated that, because the poorest live closest to the water in a river system, a large number of minority and impoverished populations live in the areas most prone to flooding and other disasters. The Mississippi Delta area of south Louisiana loses about one football field’s worth of land every 45 minutes to rising sea levels. This community is especially vulnerable because it is the least transient community in the United States and therefore has no history of migration, let alone the resources needed to settle somewhere else. She emphasized the disproportionate lack of attention the delta’s residents receive versus the economic importance of the region in terms of energy production and interstate commerce.

Ebonye Allen, Interim Director, U.S. EPA Gulf of Mexico Program, discussed the efforts underway to alleviate some of the conditions the previous speakers have discussed. EPA’s Gulf of Mexico Program was founded as a non-regulatory way of funding projects and providing technical assistance to communities in the wake of the many disasters that have occurred there over the last decade. Affiliated programs like the Building Blocks Program, as well as grants provided by the Office of Sustainability, aim at reducing burdens in EJ communities, rehabilitating fisheries, and directly engaging residents in their community’s recovery. The Coastal Communities Resilience Index was created in order to identify relative levels of need in the Gulf Coast. The program’s main office recently moved to Gulfport in order to be more centrally located.

Michael Ellerbock, Virginia Polytechnic and State University, asked Councilwoman Holmes-Hines what it specifically was in her view that wiped out black communities in Gulfport. Councilwoman Holmes-Hines responded that she meant biased zoning activities.

Melissa McGee-Collier asked if the panelists thought that recovery funds from the BP oil spill were being used more for economic development than they were for community development, and if so, how could communities use such funding. Thao Vu responded that, her community for example, would benefit from scientific education and training around some of the issues fisheries face in their recovery. With such training, they could return to their livelihoods ready to work in a more sustainable fashion. She went on to say that a lot of the proposed projects are for communities that are distant from the nexus of the disaster. James Black added that some community’s reluctance to reach out for help and to voice their concerns has complicated the task of providing support. Melanie Baldwin responded that it’s not so much that they needed community development funding over economic funding, but that that economic funding had to be better diversified.

Savi Horne, Land Loss Prevention Projects, asked what the panelists’ relationship to the Rural Development branch of the USDA has been, since there’s some overlap with EPA programs. Patricia Whitney responded that there has been no funding from Rural Development programs and that, if there has been, it has been very little.

Richard Moore asked if there had been constructive recommendations back from EPA's Region 4 from their input during the working group sessions and has there been similar feedback from the interagency working group on environmental justice. **Mustafa Ali**, Senior Advisor for Environmental Justice, gave a history of the interagency working group and reported on its current projects. He assured Mr. Moore that there would be communication between Region IV and the interagency working group.

Paul Shoemaker, Boston Public Health Commission, asked what was done right in terms of meaningful community engagement post-Katrina and post-BP oil spill. **Patricia Whitney** responded that those agencies that took the time to listen to local communities had the most positive impact.

Sacoby Wilson, Maryland Institute for Applied Environmental Health, pointed out the difficulties in restoring overburdened communities when those communities have been historically disadvantaged. **Patricia Whitney** commented that resilience was less about returning to a previous state and more about being prepared for the future.

Kerry Doi, Pacific Asian Consortium in Employment, commented that Asian communities often get left out when disadvantaged minority communities are discussed.

Nicky Sheats asked James Black if he could give some concrete idea as to how many people left the Gulf Coast due to these disasters. **Bishop Black** responded that between 20,000 and 25,000 people left and only around 6,000 have returned. **Dr. Sheats** also asked EPA why it takes so long to receive responses from the agency.

1.3 Community Recovery and Revitalization: Resources and Technical Assistance for Communities

Richard Gragg, Florida A&M University, presented ways in which he thought colleges and universities could support EJ communities. Universities have "social capital" and therefore have the ability to do such things as offer scholarships to students within a community facing environmental justice issues in order to equip them with the necessary tools to address those problems. Historically Black Colleges and Universities (HBCUs) are already leveraging their community resources to study diversity and food security, an issue Dr. Gragg believes to be essential to environmental justice issues. He suggested that the NEJAC produce a report on the importance of HBCUs to the environmental justice movement.

Richard Mushi, Mississippi Valley State University (MSVU), spoke about activities in the city of Itta Bena, Mississippi, where MSVU is located, as an example of what can be done in cities that lack resources. Despite budget constraints, Dr. Mushi and his colleagues at MSVU have come up with low- or no-cost ways of educating and training the community in Itta Bena, Mississippi on EJ issues. Itta Bena benefits from a recycling program begun by MSVU as well as a program in sustainable development funded by a grant from the EPA, among numerous other programs. Itta Bena suffers from declining infrastructure and brownfields, though the EPA has awarded the city grants to redevelop those spaces. Despite these grants, citizens of Itta Bena continue to discover polluted areas that will require more assistance from external parties like the EPA to clean up.

Denis Wiesenburg, University of Southern Mississippi, as director of the Center for Gulf Studies (CGS), discussed the Center's activities around caring for the Gulf Coast environment as well as utilizing its

resources in a sustainable fashion. CGS has been primarily focused in recent years on the effects of the BP oil spill. Dr. Wiesenburg believes that universities are instrumental in educating the public in EJ issues. Universities house institutions like research or design centers that communities can utilize in achieving their environmental justice goals. Research studies conducted by universities can also assist communities by providing in-depth technical information. Dr. Wiesenburg cited two specific programs, the Mississippi Integrated Health and Disaster Program and the Mississippi Network for Cancer Control and Prevention that fulfill public health needs brought about by environmental disasters.

Michael Burns, U.S. EPA College Underserved Community Partnership Program (CUPP), discussed how the CUPP matches community problems with local academics and students with the expertise to solve them. Not only does this foster a deeper relationship between schools and communities, but students also better their employment opportunities through practical experience. The program, which began in 2011 with 4 schools, now boasts relationships with 41 schools in 14 states. Students have come up with many exciting and innovative ways of assisting their communities with issues like food deserts, addressing racial, gender and cultural biases in rural communities, and future land use plans for communities with superfund sites.

Robert Bullard, Texas Southern University, said that calls over the last 25 years to develop environmental justice centers in HBCUs and minority-serving institutions have generally gone unheeded, though small projects have arisen here and there. When funding has been made available it has not gone to the institutions that serve minority populations and that are in need of it. Minorities have been underrepresented on decision-making boards and racist zoning practices have inhibited these populations from organizing. Dr. Bullard believes that technical assistance needs to be augmented with studies that map the flow of money. As an example of how disadvantaged minorities are in this process, Dr. Bullard shared that research has revealed that 60% of the waste from the BP oil spill clean-up was going into landfills located in majority black communities. He noted that the water crisis in Flint is not an exception, but rather the rule when it comes to environmental justice, especially in EPA Regions 4 and 6.

Beverly Wright, Dillard University, voiced objections to EPA's approach to CUPP, noting that her university began similar programs and never received the same level of support or recognition. She criticized the EPA's failure to work with smaller schools that already have similar programs, instead funding larger, more recognized schools that don't have the same budgetary concerns.

Cynthia Rezendes, Mohala I Ka Wai, echoing Dr. Wright's comments, said that a lot of work similar to CUPP has been done at the community college level, but has been initiated only through contacts at big research universities. Even then, however, these projects are often undertaken pro bono. While she appreciates CUPP, she wonders why the EPA and other organizations aren't more focused on institutionalizing it to be a source of funding and education, instead of funding one-off ventures.

Ellen Drew, Rural Communities Assistance Corporation, asked the panelists what could be done outside of educational institutions. Robert Bullard recommended that the EPA sponsor an RFA to create environmental justice centers at HBCUs. Richard Gragg additionally requested that current environmental justice educators at HBCUs be invited to comment on the RFA process to ensure that smaller institutions receive money.

Vernice Miller-Travis reiterated the need for the funding of environmental justice programs at HBCUs.

Cheryl Johnson asked Mr. Burns if the information about his student's projects was publicly available.

Richard Moore criticized the EPA's educational grant process for giving money neither to minority community organizations nor to minority-serving institutions. Universities continue to fail to include minority students in their programs. He also criticized the robustness of the interagency working group process, saying that other agencies besides EPA should be considering these issues.

Michael Ellerbock asked why it was that it took Virginia Tech to identify what was going on with the water in Flint, Michigan.

Fatemah Shafiei, Spelman College, supported Robert Bullard's comments.

Sacoby Wilson added his support to the previous comments, noting that, for a recent grant for centers for environmental health disparities, not a single university in the southern U.S. received money.

Nicky Sheats suggested the possibility of partnerships between individuals within the environmental justice movement and schools, especially HBCUs, conducting environmental justice research.

1.4 Dialogue with the U.S. EPA Office of Water

Joel Beauvais, Deputy Assistant Administrator, U.S. EPA, introduced himself and gave a summary of his professional history.

Deputy Assistant Administrator Beauvais said that work is underway to restore drinking water to the community in Flint. Though the crisis was caused by an extraordinary series of missteps, lead and copper in drinking water is a problem in anywhere from 6 million to 10 million homes nationwide, with 68,000 homes being subject to the Lead and Copper Rule. Lead and copper has a disparate impact on impoverished communities. Recently, the Office of Water has undertaken efforts to revise and strengthen the rule, as informed by the conditions in Flint. While the rule is revised, the EPA has stepped up its oversight of state and regional primacy authorities. Furthermore, the EPA has contacted primacy agency heads and governors, asking them to scrutinize water programs in their states.

The Office of Water can claim that, according to the compliance data they receive, 91% of the country's drinking water systems meet standards. The Office is very worried about that last 9%, however, which is primarily composed of small, rural systems that serve fewer than 3300 people on average.

EPA's need surveys have identified at least \$655 billion in necessary infrastructure improvements; a number that Deputy Administrator Beauvais believes is likely an underestimate. On the drinking water side, \$384 billion are needed for improvements. State Revolving Funds (SRFs), at around \$2 billion per year, comprise the majority of resources the EPA can provide to under-resourced communities.

The EPA is committed to working with communities to ascertain where dollars are most needed and to provide assistance through other programs like WaterCARE.

Beverly Wright asked if the Michigan state DEQ is being investigated to see if their authority should be abdicated over the crisis in Flint.

Sacoby Wilson said that the nation's problem with lead extends beyond its presence in drinking water to issues like lead-based paint in homes. He hoped that a more comprehensive program for investigating the presence of lead could be instituted. He added that, because the Safe Drinking Water Act doesn't cover private wells, there needs to be more work to understand what kind of pollutants might make their way into those systems.

Dennis Randolph asked for increased accountability of EPA-funded public works.

Richard Moore commented that, historically, the EPA's Office of Water has neglected EJ concerns, allowing impoverished or minority communities to drink contaminated water. Additionally, grassroots community and environmental justice organizations have not been given enough of a voice in the EPA's official EJ programs.

Kelly Wright, Shoshone-Bannock Tribes, commented that ethylene dibromides (EDB) have been present in his tribe's water for many years and asked the Office of Water to investigate.

Vernice Miller-Travis noted that there are some serious legacy issues with the Office of Water. She went on to request that the Office of Civil Rights and the Office of Water conduct an investigation into the Michigan Department of Environmental Quality on account of its longstanding civil rights abuses. She expressed outrage that similar abuses appear to be occurring in Newark, New Jersey and other communities as well.

Lisa Finley-Deville, Mandan, Hidatsa & Arikara Nation, commented that the Bakken oil and gas extraction has threatened her community's drinking water.

Melissa McGee-Collier asked for an investigation into the lead exposure for children 5 and older. She also said that, for SRFs, even the reduced interest rate is burdensome for impoverished communities. Finally, she questioned why, in Jackson, Mississippi, "boil water" notices were handed out more frequently in minority than in non-minority communities.

Nicky Sheats questioned EPA's hesitancy to index EJ or vulnerable communities, as well as its hesitancy to challenge state practices.

Kerry Doi asked the EPA to consider working more frequently with non-profits to match grants.

Deidre Sanders asked EPA to be more rigorous in examining communities for discrimination prior to the allocation of funds.

Ellen Drew said that the reason the 9% are left over without access to safe drinking water is that they don't have the leadership experience necessary to go after technical assistance. The last census did not include income information, which has left poor communities scrambling for ways to express that they qualify for SRFs. The NEJAC should work more closely with Environmental Financial Advisory Boards.

Savi Horne echoed Sacoby Wilson's request to investigate further contamination in well water.

Deputy Administrator Beauvais responded that there is an ongoing audit of Michigan's DEQ that should be completed by the end of the summer. He assured that there are both intra-agency and interagency efforts to examine lead contamination holistically. He went on to discuss some of the Office of Water's

activities as regards specific set asides and programs for native populations. The Office of Water is aware of the burden faced by rural communities in repaying loans from the SRFs and is working on ways of assisting them with repayments.

1.5 Dialogue with the U.S. EPA Region 4 Administrator

Heather McTeer Toney spoke about the specific challenges Region 4 faces by being the biggest region in terms of population while at the same time serving many low-income or impoverished communities with legacy environmental injustice issues. The Region 4 team has been primarily working on water contamination, economic development, and community-stakeholder collaboration. The administrator elaborated on some of the particular projects like WaterCARE in Alabama and work in north Gulfport and water quality monitoring in Turkey Creek. She and her team very much value personal contact and experiences with the communities in Region 4, taking tours and taking the time to speak with residents personally.

Regional Administrator McTeer Toney awarded a certificate of achievement to Margaret May for her work with the Southeast Regional Interagency Working Group on Environmental Justice in North Birmingham.

She acknowledged the criticism of CUPP but remained firm in her belief that the program is valuable.

Teri Blanton explained some of Kentucky's issues with water and how, even moving from well water to municipal systems, testing has revealed selenium, arsenic, cadmium, and beryllium, among more materials.

Horace Strand, Chester Environmental Partnership, echoed previous commenter's complaints that grassroots organizations were receiving inadequate funding, while academia is comparatively well-funded. **Regional Administrator McTeer Toney** responded that there are efforts to fund grassroots organizations and hold municipalities accountable, at least in Region 4.

Vernice Miller-Travis asked about the flooding in Greenville, Mississippi. **Regional Administrator McTeer Toney** reported that there are infrastructure issues that amplify the flooding. She also said that these problems are caused by a lack of planning and that, in response, municipalities need to have more robust maps of their districts and stronger plans for contingencies. Part of this planning also needs to be working with federal agencies in order to ensure that they can take adequate advantage of SRFs.

Richard Moore congratulated the Regional Administrator McTeer Toney on her relatively new position. He also admonished that slow responses like the ones EJ communities experience only serve to disenfranchise them.

Sacoby Wilson suggested that data visualization tools could assist the region in identifying EJ communities' needs by overlapping funding, programmatic activities, and infrastructure.

1.6 EPA Updates

1.6.1 NEJAC Monitoring Work Group

Dennis Randolph spoke about receiving feedback on a document he has been charged with composing.

1.6.2 EJ 2020 Action Agenda Framework

Charles Lee, Deputy Associate Administrator for Environmental Justice, gave the update on the agency's five-year strategic plan, EJ 2020. The plan revolves around three primary goals.

- To deepen the Agency's environmental justice practice
- To collaborate with partners to expand the Agency's impact in overburdened communities
- To demonstrate environmental justice progress by focusing on critical national-level challenges

The Agency stresses the need to work with partners and stakeholders in order to implement this ambitious plan over the next five years. The plan will be issued for public comment in April and will hopefully be finalized by the end of summer 2016.

1.6.3 NEJAC Youth Perspectives Climate Justice Work Group

Mustafa Santiago Ali, Senior Advisor to the Administrator for Environmental Justice, gave the report. In order to cultivate the next generation of leaders, the EPA began a youth work group focused on climate justice. The response has been overwhelming with more than 1400 applications submitted. Mr. Ali hopes that these students, who come from diverse backgrounds and from high academic achievement, will be a basis for similar programs in other federal advisory committees and other federal agencies.

Yudith Nieto, a member of the youth work group, spoke on behalf of her fellow members. She explained how her experience in an overburdened community surrounded by industry drove her to become involved in environmental justice.

Makara Rumley, the DFO for the youth work group, spoke about its origins and the process through which it was formed.

Margaret May stated that she hoped this work group would provide the foundation for bringing a youth member on to serve on the NEJAC.

Michael Ellerbock suggested that, as a workaround for entrenched political attitudes against climate change, the work group should make itself relevant through examples specific to targeted communities.

Sacoby Wilson praised the work group's formation and emphasized the importance of developing environmental justice leaders over time.

Nicky Sheats expressed his opinion that the youth work group members should be aware of the distinct perspectives of the EPA and the NEJAC. He then offered his time to speak to the work group members about some of those differences.

1.7 Public Comment Period

On March 16, 2016, the NEJAC held a public comment period to allow members of the public to discuss environmental justice concerns in their communities.

Eric Aldape, Director of Community Health, Diesel Health Project, spoke about taking care of pollutants that are byproducts of freight in Kansas City. These pollutants disproportionately affect minority populations and, despite Mr. Aldape's organizational efforts, he urged the NEJAC to petition the EPA to take the following steps: (1) require use of zero emission technologies, (2) new set of national standards to reduce emission from freight, (3) initiate an environmental review process whenever freight related projects are proposed, (4) must assist state and local government in addressing freight-related pollution, and (5) EPA should hold regular meetings with communities affected by freight-related pollution.

Christine Bennett, Mossville Environmental Action Now (MEAN), protested the buyout program taking place in Mossville under BP. She urged the NEJAC to examine the future of such programs and urged community that faced buyouts to band together to prevent them.

Delma Bennett, Mossville Environmental Action Now (MEAN), elaborated on Ms. Bennett's comments, saying that their protest wasn't just about the buyout, but that it was also about pollution and Superfund sites in their community. Industry pursued a predatory buyout plan through false incentives that left residents substantially less well off than what was promised. **Vernice Miller-Travis** asked how old the community is. Christine Bennett answered that her family has lived there for the last 90 years. **Beverly Wright** asked if there was legal recourse for the residents of Mossville. Mr. Bennett replied that meetings were ongoing, but that enhancements were not currently feasible. He also requested that the NEJAC consider a buyout working group.

Jennifer Crosslin, Steps Coalition, spoke about her organization's work in Pascagoula, MS. A local Chevron refinery as well as two other oil and gas processing plants release 2 million pounds of toxic chemicals a year, some of which inevitably escape into the community. The local community's deteriorating health spurred them to organize in protest of the expanding industry around them. As a part of this effort, they have kept logs and performed tests that have revealed levels of toxins far above the standards set by the World Health Organization. When they've approached officials, they've been ignored. Ms. Crosslin petitioned the NEJAC and the EPA to pay attention to their community and to work with the EPA on faster response times. **Nicky Sheats** asked if the PM2.5 standard was being violated, to which Ms. Crosslin replied yes. **Edith Pestana**, Connecticut Department of Energy & Environmental Protection, suggested petitioning EPA or the state to partner with their local monitoring activities. **Vernice Miller-Travis** pointed out there is an analogous process going on in EPA Region 9 with the Office of Environmental Justice.

Vernell Cutter, Georgia Research Environmental Economic Network, spoke about how the movement of goods in the Georgia ports affects ambient air quality in the surrounding communities. Mr. Cutter claims that the EPA has repeatedly ignored his organization's protests and what few measures they have taken have been ineffective.

Leslie Fields, Sierra Club, discussed the Sierra Club's ongoing issues with the National SO₂ Standard. The Michigan DEQ, after delays, offered an insufficient draft plan for adherence to the standard. Ms. Fields ask that the NEJAC petition the EPA for sanctions against the Michigan DEQ for its continued failure to moderate the air quality, as well as other offending DEQs. **Vernice Miller-Travis** asked if there was a conflict of interest inherent in the EPA expecting state DEQs to carry out its mission while also levying sanctions against them. Ms. Fields said it's possible, but that the agency must use all the tools available.

Sacoby Wilson suggested that issues like this arise because the DEQ is separate from public health bodies.

Gloria Horning, Wedgewood Rolling Hills Homeowners Association, reminded the NEJAC that for all the success of programs like CUPP, environmental justice advocates must not forget outreach to middle class and predominately white communities to educate them about EJ issues. Dr. Horning informed the NEJAC that the Wedgewood Rolling Hills community has been requesting an environmental inspection of local landfills for years. Landfills in neighboring predominately white communities have been demonstrated as unhealthy and have been promptly closed, even though the ones in Wedgewood Rolling Hills have been suffering their ill effects for many years. **Beverly Wright**, in support of Dr. Horning, explained that hydrogen sulfide was at the heart of a lot of landfill issues but that the EPA still needs to make a rule about acceptable levels.

Omar Muhammad, Low Country Alliance for Model Communities, Charleston (LAMC), South Carolina, was the first grassroots community organization to mitigate environmental impacts from a project through the NEPA (enacted in 1969) process through the receipt of \$4 million. Mr. Muhammad's community suffers from the cumulative impacts of legacy pollution from encroaching industry as well as a generational poverty and biased zoning practices. Mr. Muhammad asked the NEJAC to recommend to the EPA: 1) the establishment of diesel emissions standards for communities surrounded by transportation industries, 2) the implementation zero emission technology in industry, 3) a comprehensive EJ analysis of impacted communities, focusing on health impacts, especially in the NEPA process, 4) deeper partnerships with grassroots organizations in order to influence policy, 5) the requirement of action as a part of RFPs, 6) increased communication with communities on the progress of their suggestions. NEJAC members questioned Mr. Muhammad about additional details of his program and encouraged meeting attendees to contact him as an informational resource.

Juan Parras, Houston, Texas, played a video about the environmental impacts of the Valero Energy Corporation's refinery outside of Houston, Texas. The video also highlights the deleterious effects of other industries in the area. Mr. Parras asked that the NEJAC consider holding its next meeting in Houston, in order to observe more closely some of the environmental issues there. He identified the community of Manchester, Houston, as being one of the hardest hit and most forgotten, despite the economic benefits it provides. **Deidre Sanders** corroborated this, explaining that she had taken a tour of Manchester and had been sobered by what she saw there.

Leo Woodberry, Kingdom Living Temple, Florence South Carolina, said that the environmental justice situation in South Carolina was dire. He has recently given testimony at the U.S. Commission on Civil Rights in support of the EPA. He believes, however, that there are more things that it could do such as having more meaningful engagement with community stakeholders and taking a proactive, multi-pronged approach to changing public health outcomes.

James "Catfish" Miller spoke about some of the personal health challenges, including extended hospital visits, he faced from exposure to pollutants aboard BP clean up vessels on the coast of Mississippi after the Deepwater Horizon crisis. Mr. Miller testified that he has observed how devastated the ecosystem is and how, even six years after the fact, the habitat has failed to bounce back. Responses and support from BP have been insufficient; Mr. Miller has received \$13,000 from BP for health costs despite the fact

that his hospital bills total over \$460,000. Mr. Miller believes that the elected officials and state authorities like the Department of Marine Resources and the DEQ have failed him. **Melissa McGee-Collier** responded that organizations like Agency for Toxic Substances and Disease Registry (ATSDR) needed to be involved, because there is no single organization that handles environmental public health impacts.

Yolanda Ferguson testified on behalf of her husband, a net-maker in the Gulf Coast, about how ill he became after handling nets after the oil spill and how devastated his business has been. She believes that it was exposure to the oil dispersant Corexit that caused his health problems. Ms. Ferguson petitioned the NEJAC to emphasize the impact of the oil spill to the EPA.

Derrick Evans is a part of many organizations, including Turkey Creek Community Initiatives, Steps Coalition of Coastal Mississippi, Bridge the Gulf Citizens Journalism Project, and the Gulf Coast Fund. Mr. Evans was a part of drafting NEJAC's recommendations for including communities in the aftermath of the BP oil spill. In response, the NEJAC was informed that a Regional Citizen's Advisory Council (RCAC) would be established and funded. The RCAC was never established and underserved communities were therefore denied a voice in the direction of clean-up efforts. Without an RCAC, Mr. Evans argued, states were given the authority to direct the use for funds irrespective of what was best for communities most affected.

Mary Thigpen, Forest Heights Turnkey 3 Program, pled for the NEJAC's support and acknowledgment of the issues in Gulfport around flooding from the destruction of a levee that had been misclassified. Water quality is also an issue in Turkey Creek. She added that trains and trucks burning diesel were negatively affecting her community.

Michele Roberts asked the NEJAC to consider a working group that would monitor the risk management plan (RMP) process. She stated that the current risk-based approach to harmful environmental impacts was not sufficient and that it must be supplemented by a precautionary approach. She criticized lengthy implementation times for regulation, especially for the Clean Water Act. She also asked the NEJAC to monitor the above-ground water tank storage rule to ensure that implementation occurs in less than four years. On behalf of Jeannie Economos, Farmworker Justice, Ms. Roberts compelled the NEJAC 1) to educate state enforcement authorities in racial equity, 2) to incorporate an environmental justice framework in cultural competency training, 3) encourage cultural and racial diversity amongst state authorities, and 4) to promote understanding of language barriers, immigration status, and other cultural distinctions that exist among rural farm workers.

Jan Victor Andasan, Moving Forward Network, shared his experience of the impacts of living near the Port of Long Beach and Los Angeles as well as the Union Pacific rail yard.

Kim Gaddy, Clean Water Action, Moving Forward Network, spoke about some of environmental justice issues that arise from Newark's proximity to facilities like the Port of Newark and the Edison Generation Station. She reiterated the recommendations enumerated earlier by Eric Aldape.

Melissa Lin Perrella, Natural Resources Defense Council, Moving Forward Network, offered the NEJAC a letter outlining the Moving Forward Network's recommendations to EPA Administrator Gina McCarthy.

She also shared some of the work that she's done to create a voluntary ports program. She acknowledged that more needed to be done, however.

Yvette Arellano, Texas Environmental Justice Advocacy Services, asked the NEJAC to release National Air Toxics Assessment (NATA) more frequently because of its wide applicability. The data hitherto available is out of date.

Howard Page, community organizer in the Mississippi Gulf Coast region, encouraged the NEJAC to explore opportunities for the education of state and local officials in environmental justice issues, pointing out that only environmental justice affiliated public officials were present at the meeting.

Azibuike Akaba, Moving Forward Network, complained that the response the Moving Forward Network received from a March 19, 2015 letter was inadequate. He thanked his fellow public commenters for sharing their stories. **Vernice Miller-Travis** assured Mr. Akaba that the NEJAC is similarly frustrated with the EPA's response times.

Sandra Weyth, Concerned Citizens Association, voiced dismay over warning signs posted on the beach in the Gulfport. These signs provide inadequate notice that the water is contaminated. She also asked the NEJAC to spend more time with community members.

Angelo Logan, Moving Forward Network, played a video about the environmental dangers caused by the diesel emissions that are a byproduct of freight in Long Beach, California, creating what community activists call a "diesel death zone." He reiterated calls to take up the recommendations initially made by Eric Aldape and supported by previous Moving Forward Network members Kim Gaddy and Melissa Lin Perrella. Cynthia Rezentes asked if there were other viable zero emission technologies that could be used to address this problem.

Brian Rice, commercial fisherman, related how, after the BP oil spill, Corexit was sprayed from planes while fishermen were present in the water. He asked why commercial fishing had not yet been reestablished and spoke about the foundational role oysters play in the Gulf Coast ecosystem.

Thao Vu asked about submitting subsequent written comments and about the use of dispersants to clean-up the oil. She noted that there is deep distrust between fishermen, scientists, and regulators.

Christine Wice implored the NEJAC to focus more efforts on EJ issues as they relate to children.

1.8 Written Comments

The following individuals submitted written comments for the record. Copies of those documents are included in Appendix B of this report.

- Eric Aldape – Diesel Health Project – Kansas, KS
- Christine and Delma Bennett – Mossville Environmental Justice Now – Mossville, LA
- Jeannie Economos – Farmworker Association of Florida – Apoka, FL
- Angelo Logan – Moving Forward Network
- Sharon McCormick – West Ambler Environmental Injustice Committee – Ambler, PA
- Diane Morgan – BoRit Asbestos Superfund CAG - Ambler, PA

- Michelle Roberts
- Joe Womack - Mobile Environmental Justice Action Coalition - Mobile, AL

2.0 Welcome and Opening Remarks

Margaret May convened Day 2 of the NEJAC meeting at 8:18 a.m.

2.1 Community Recovery and Revitalization: Non-Governmental Organizations

Derrick Evans, Turkey Creek Community Initiative, recounted how Turkey Creek's environmental justice experience gave it the tools necessary to convene EJ organizations, as a part of the Steps Coalition. Interstate communication among EJ communities helped form the Gulf Coast Fund Advisory Group. Mr. Evans focused on how sharing knowledge and experience empowered disadvantaged communities by bringing them together, arguing that they function like one large Gulf Coast EJ community anyway. He emphasized the importance of relying on local knowledge for regional problem-solving as opposed to national 501(c)(3)'s.

Yomi Noibi, ECO-Action, spoke about the burden communities that border industrial sources of pollution face insofar as they have to expend resources proving to the EPA that they've been poisoned. Therefore, precautionary principles are more effective than repairing damage and should be pursued whenever there is uncertainty about adverse environmental impacts. These precautionary principles were: 1) to yield to early warnings signs of environmental disasters and 2) to shift the burden of proof away from the disadvantaged. He echoed some of Mr. Evans' comments about 501(c)(3)'s, saying that it was important that NGOs work within communities to help them empower themselves instead of trying to empower them from the outside. He encouraged the NEJAC to support NGOs by giving them guidance on interacting with communities but also to urge the EPA to step up enforcement of environmental standards.

Donele Wilkins, Green Door Initiative, spoke about promoting environmental literacy through a 501(c)(3) and about Green Door Initiative's work in Flint, Michigan. They take a two-pronged approach to education, utilizing community organizers and experts. The experts train youth and other residents in techniques for conducting lead tests and the protocols for analyzing those tests. Green Door Initiative also disperses information about the effects of lead contamination on residents as well as information about how to interact with the federal and local agencies responsible for the crisis. They also do workforce development. Dr. Wilkins implored the NEJAC to ask EPA to consider relocation for Flint's most affected residents.

Jacqueline Patterson, National Association for the Advancement of Colored People, spoke about how non-governmental organizations need to be voices of revolution. Using Detroit, Michigan, as an example she explained the myriad ways in which impoverished and minority communities are prevented from self-governance and are deprived of basic resources. She argued that NGOs must take both a macro- and a micro-level approach in effecting change. Environmental justice is not just about reversing pollution, but also about the effects that pollution has on human beings. Grouping them by the ideas of resistance, resilience, reclamation, and revolution, she enumerated examples of people and organizations that have fought for disadvantaged and minority groups by fighting for environmental justice.

Reminding everyone that the council is for the people, **Richard Moore** recommended to the participants that they take back ownership of the NEJAC.

Vernice Miller-Travis asked Donele Wilkins about the historical background of the Flint water crisis.

Beverly Wright, thinking about the misappropriation of money after Katrina, asked what kind of accountability measures were in place in Flint.

Teri Blanton asked if GM was going to be held responsible for dumping lead into waterways.

Michael Ellerbock suggested that NGOs work to improve industry's understanding of the benefits of environmentally-friendly business practices.

Sacoby Wilson reflected upon the panelist's comments as they related to political power dynamics.

Nicky Sheats asked Donele Wilkins to expand upon her relocation proposal. Donele Wilkins responded that 10% of the population of Flint was extremely impacted and that resources needed to be directed towards relocating them. Jacqueline Patterson added that if the community had the input they wanted, then the crisis would have been prevented. One of the community's desires was to have a community oversight board to ensure the accountability of relief funds.

Yomi Noibi spoke more about ECO-Action's work in assisting communities to empower themselves and about preventing harm.

Derrick Evans spoke about the necessity of giving voices to disenfranchised citizens.

2.2 Community Recovery and Revitalization: Government and Private Focus

Marsha Minter, Environmental Justice Inter-Agency Working Group (EJIWG), gave details about the IWG's authority and operations. As a result of the decline in participation by senior leaders, the EPA reorganized the IWG, prioritizing new areas, including 1) impacts from climate change, 2) goods movement, 3) the National Environmental Policy Act, 4) an indigenous/Native American peoples community committee, and 5) a rural communities committee. Around this time, the IWG also crafted a three-year strategic plan to preserve goals through administration changes. The current plan is the EJ Framework for Collaboration. She enumerated the activities envisioned under this strategic plan.

Wesley Kerr, U.S. Department of Agriculture, spoke about the USDA StrikeForce Initiative. Around 85% of the country by land area is rural and 1 in 3 children in rural areas grow up in poverty. The StrikeForce Initiative aims to address these issues through home building, economic development, farmer assistance and food assistance. Mr. Kerr played an informational video about the StrikeForce program.

Bevin Hunter, Delta Regional Authority (DRA), spoke about the background and the mission of her organization. DRA has an economic assistance program that awards funding to various community needs, through their local development districts. They also partner with various other federal agencies, noting in particular the Innovative Readiness Training program that, in part, provides free medical care in the region. The DRA also administers a workforce development program and operates a Delta Entrepreneurship Network.

Jessica Shappley, Hope Enterprise Corporation, spoke about her organization's efforts at regional development, focusing on how financial institutions can sponsor community development in the wake of natural disasters. The organization is comprised of Hope Credit Union, the Hope Enterprise Corporation, and the Hope Policy Institute. Hope Credit Union provides low- or no-interest loans to fund rebuilding. They also perform services such as welfare counseling, offering grants, providing modular housing, and commercial lending services for small businesses. Ms. Shappley argued that community development financial institutions are integral to rebuilding after disasters because they know their regions and they can provide capital to those most in need of it.

Corey Aber and **Robert Diehl**, Freddie Mac, made a joint presentation on some of the agency's operations. Freddie Mac works towards support and liquidity of the secondary housing market, working with a loan servicer rather than offering the loan directly. The agency is divided into two units, multi-family housing (five units or more) and single family housing. Ninety percent of the multi-family units that Freddie Mac provides financing for fall at 100% of the AMI or below, supporting around 2 million people total through this branch. Mr. Aber assured the NEJAC that there is an environmental report on all properties prior to lending. After Hurricane Katrina, Freddie Mac offered forbearance agreements to all of its borrowers and suffered no financial losses because of this. Mr. Diehl spoke about the single family side of Freddie Mac, pointing out that they operate in a symmetrical fashion. He elaborated on some of the products and programs that the agency offers. This unit of Freddie Mac indirectly loaned \$400 billion to help 1.6 million people buy or refinance their homes.

Deidre Sanders informed Corey Aber and Robert Diehl asked that Freddie Mac look into the allegation that developers have been taking advantage of regulations to create affordable housing adjacent to industry. Mr. Diehl noted that this mostly occurs with multi-family housing, but that the single-family branch has just created a working group to address this issue.

Paul Shoemaker asked about some of the details of Freddie Mac's forbearance and low down payment loans. Robert Diehl explained further all the measures Freddie Mac takes to ensure that borrowers stay afloat. He also said that Freddie Mac does not combine low-down payment loans with an adjustable rate mortgage. Mr. Shoemaker went on to ask Bevin Hunter and Jessica Shappley what can be done to resource regional facilities to properly care for affected residents.

Cynthia Rezentes asked Marsha Minter what guarantee she had that the discussions in the EJIWG were leading to practical outcomes. She also asked the Freddie Mac representatives to clarify some of the issues surrounding what qualifies as AMI and affordable housing. Ms. Minter explained some of the groups oriented towards practical outcomes that fall under the IWG's purview. Mustafa Ali jumped in to discuss the importance of regional IWG's, saying that not all EPA regions have one. Corey Aber acknowledged that there is a dearth of affordable housing in the country and elaborated on some of Freddie Mac's approaches to that.

Richard Moore spoke about the efforts surrounding interagency working groups in EPA Region 6. He also cautioned Freddie Mac to pay attention to gentrification issues, especially in neighborhoods that have been de-industrialized and cleaned up.

Savi Horne noted that the USDA released its 2016-2020 EJ strategic plan that had StrikeForce being the primary implementation body in EJ communities. She voiced concern about the USDA including sustainable farming practices while providing assistance to farmers.

Sacoby Wilson criticized the USDA's 2020 strategic plan for neither being comprehensive enough nor including concrete goals. He also asked the NEJAC to form a financial institutions work group to discuss the intersection between them and EJ issues. Jessica Shappley said that the Hope Enterprise Corporation would be interested in being part of financial institutions IWG. Wesley Kerr encouraged Mr. Wilson to share these criticisms during the Federal Register comment period.

Fatemah Shafiei asked Freddie Mac representatives about its borrower informational centers. Robert Diehl informed her that the borrower informational centers' location and number were dictated by the level of foreclosure risk during the 2008 financial crisis.

Vernice Miller-Travis asked Marsha Minter about IWG activities in Region 4, and criticized some of the purported outcomes. She also asked why each EPA region did not have its own IWG.

Melissa McGee-Collier asked the Freddie Mac representatives about how natural disaster forbearance affects borrower's credit ratings. Robert Diehl responded that Freddie Mac's official policy to loan servicers is to not report failures to pay throughout the forbearance period.

2.3 NEJAC Conversation

Matthew Tejada bid farewell to the five NEJAC members who will be leaving the council this term, Margaret May, Edith Pestana, Vernice Miller-Travis, Savi Horne, and Teri Blanton. Savi Horne then commemorated Margaret May and the other members by reading some poetry. Margaret May thanked the committee for their appreciation and made some remarks about her time serving as chair. She urged the council members to put away differences to come together in support of environmental justice in the U.S.

Matthew Tejada gave out awards. He then adjourned the NEJAC meeting at 12:03 pm.

**APPENDIX A
LIST OF ATTENDEES**

DRAFT

**National Environmental Justice Advisory Council
 March 15-16, 2016 Public Meeting
 List of In-Person Attendees**

First Name	Last Name	Organization
Corey	Aber	
Azibuke	Akaba	MFN
Eric	Aldape	Diesel Health Project
Yvette	Arellano	
Taaka	Bailey	
Melanie	Baldwin	The City of Prichard
Samantha	Beers	
Lillie	Bender	
Kent	Benjamin	U.S. EPA
Christine	Bennett	Mossville Environmental Action Now
Delma	Bennett	Mossville Environmental Action Now
Arturo	BLANCO	EPA
Teri	Blanton	KFTC
Joshua	Borden	Neal R. Gross & Co.
Nicholas	Bosarge	Gulf Coast Fisherman
Robert	Bosarge	Gulf Coast Fisherman
Pepper	Bowen	
Christian	Braneon	
Christene	Brice	Election Commissioner
Jennifer	Buchanan	
Evelina	Burnett	MPB
Michael	Burns	
L.	Caldwell	Steering Committee Watershed
Pat	Carey	
Grace	Carson	
Jennifer	Carter	
Charles	Chase	University of Colorado
Glenn	Cobb	BCO
Shirely	Cooper	Steps Coalition
Cecil	Corbin-Mark	WE ACT for Environmental Justice
Jennifer	Crosslin	Steps Coalition
Vernell	Cutter	
Ron	Davis	Ron Davis and Associates LLC
William	Dean	
Walter	DeVille Sr	Fort Berthold POWER
Walter	Deville Sr	Fort Berthold
Robert	Diehl	
Jayeasha	Dutta	
Katherine	Egland	
Mike	Ellerbrock	Virginia Tech & Catholic Church
Natalie	Ellington	EPA Region 4
Lena	Epps-Price	
Derrick	Evans	

National Environmental Justice Advisory Council
March 15-16, 2016 Public Meeting
List of In-Person Attendees

First Name	Last Name	
Sonja	Favors	
Maris	Fells	Turkey Creek Watershed Steering Committee
Cynthia	Ferguson	
Yolanda	Ferguson	
Joann	Fields	EJA/NAACP
Leslie	Fields	Sierra Club
Lisa	Finley-Deville	MHA Nation Tomorrow
Cherri	Foytlin	
Chelsea	Frazier	Frazier Family
Nkrumah	Frazier	
Kim	Gaddy	Clean Water Action, Coalition for Healthy Ports
Sharon	Gauthe	BISCO
F.	Gines	City of Biloxi
Becky	Ginn	Land Trust for the Mississippi Coastal Plain
Mary	Gutierrez	Earth Ethics, Inc.
Angela	Hackel	EPA
Reginald	Harris	
Arthor L	Hawkins	EEEECHO
Rosa	Herrin	
Javoyne	Hicks	
Franklin E.	Hill	Environmental Protection Agency
Raleigh	Hoke	Gulf Restoration Network
Dr. Gloria	Horning	CUEJustice
Ursula	Ible	FAMU Graduate/ Citizens For a Sustainable Future and FAMU Student Community Gard
Anthony	J	OHC
LaTasha	Jefferson	
Cassandra	Johnson	
J	Johnson	
Melanie	Johnson	Gulf Coast Fisherman
Richard	Johnson	Gulf Coast Fisherman
Sabrina	Johnson	U.S. EPA
Nataline	Jones	
Sandra	Jordan	Community Action Team of Palmers Crossing
Ntale	Kajumba	
Wesley	Kerr	USDA-NRCS
Dr. Charlotte		
L.	Keys	
Eric	Kirkendall	
Elvin D.	Lang	
M.O.	Lawrence	
Stevie	Lewis	
Melissa	Lin Perrella	NRDC

**National Environmental Justice Advisory Council
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 List of In-Person Attendees**

First Name	Last Name	Organization
Larry	Lincoln	US EPA, Region 4
Angelo	Logan	MFN
Debra	Love	
Robert	Love	
Jerrie	Magruder	
Robin	Mann	Sierra Club
Richard	Marsh	North Gulfport Civic Club
Karen L	Martin	U.S. EPA
Tony	McCray	Unity in the Family Ministry
Claude	McDonald	
Melissa	McGee-Collier	MDEQ
James	Miller	Gulf Coast Fisherman
Catherine	Minerich	
Reilly	Morse	
Omar	Muhammad	Low-Country Alliance for Model Communities (LAMC)
Jasmin	Muriel	
Yudith	Nieto	TEJAS
Chad	Nitsch	U.S. EPA
Dr. Yomi	Noibi	ECO Action
Jim	Noles	Balch & Bingham LLP
Rev.		
Jacqueline	Norris	
Marcelo	Norsworthy	
Julia	O'Neal	Sierra Club
Howard	Page	Steps Coalition
Ana	Parras	TEJAS
Bryan	Parras	TEJAS
Juan	Parras	TEJAS
Cynthia	Peurifoy	U.S. EPA
Stephanie	Plancich	Gulf Regional Planning Commission
Stephanie	Plancich	Gulf Regional Planning Commission
Alan	Powell	US EPA
Jerry	Pryor	Soria City Civic Organization
		City of D'Iberville, Gulloh Seafood and St. Michael Fuel and Ice Dock
Rusty	Quave	
Dennis	Randolph	City of Grandview, Missouri
Cynthia	Rezentes	
Brian	Rice	Gulf Coast Fisherman
Michele	Roberts	EJHA
Lakeshia	Robertson	U.S. EPA
Laura	Sanchez	EarthCon Consultants
Mustafa	Santiago Ali	U.S. EPA
Ya-Sin	Shabazz	

National Environmental Justice Advisory council
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List of In-Person Attendees

First Name	Last Name	Organization
Nicky	Sheats	Thomas Edison State U.
Paul	Shoemaker	Boston Public Health Commission
Mary	Spinks-Thigpen	Forest Heights Community
Ramsey	Sprague	
Judy	Steckler	Land Trust for the Mississippi Coastal Plain
Ruth	Story	
Horace	Strand	
Bruce	Strouble	
Shreya	Subramani	Princeton University
Gloria	Tatum	
Kerene	Tayloe	
Romona	Taylor Williams	
Denise	Tennessee	EPA Region 4
Veronique	Thomas	
Tami	Thomas-Burton	
Anthony	Thompson	Kingdom ICDC
Arthur	Totten	U.S. EPA
Jessica	Tovar	Moving Forward Network, UEPI at Occidental College
Hugh	Tran	U.S. EPA
Jan	Victor	East Yard Communities for Environmental Justice
Thao	Vu	
Alice	Walker	
Claudette	Walker	
Barbara	Weckesser	Cherokee Concerned Citizens
Roderick	Wheat	
Shanika	Whitehurst	
Denis	Wiesenburg	
Adrenace	Williams	
Darryl	Williams	
Leo	Woodberry	Kingdom Living Temple/Woodberry & Associates
Alice	Wright	Chester Environmental Partnerships
Beverly	Wright	Dillard University
Kelly	Wright	Shoshone-Bannock Tribes
Sandra	Wyche	33rd Alumni

National Environmental Justice Advisory council
March 15-16, 2016 Public Meeting
List of In-Person Attendees

First Name	Last Name	Organization
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DRAFT

**National Environmental Justice Advisory Council
 March 15-16, 2016 Public Meeting
 List of Teleconference Attendees**

First Name	Last Name	Organization
Israel	Anderson	USEPA Region 6
Vinson	Ballard	National Association For Fair- Access, Anti-Profilng and Culture (NAFACA)
Aaron	Bell	US EPA
Arthur	Blakely	NAACP/Okaloosa County Branch
Donald	Bogen	BISCO
Thomas	Dardar	United Houma Nation
Theresa	Dardar	First People's Conservation Council of LA
Donald	Harris	USEPA
Carlton	Eley	U.S. EPA
Lena	Epps-Price	
David	Gauthe	BISCO
Daniel	Gogal	USEPA/OEJ
Running	Grass	Region 10 US EPA
Garry	Harris	Center for Sustainable Communities
Maria	Hegstad	Inside EPA
Charise	Johnson	
Toshia	King	EPA/OLEM/ORCR
Lara	Lasky	US EPA Region 5
Rachel	Leven	Bloomberg BNA
Sheila	Lewis	EPA
Latoya	Miller	US EPA Region 4
Diane	Morgan	
Ravi	Rao	USEPA/R4
Kathleen	Stanley	Drew House Communications
Siobhan	Tarver	U.S. EPA Region 4
Tami	Thomas-Burton	EPA - Region 4
Sharon	Wells	EPA Region 1, Boston
Holly	Wilson	USEPA

APPENDIX B
WRITTEN COMMENTS

DRAFT

Name: Eric Aldape

Organization: Diesel Health Project

City, State: Kansas City, Kansas

DRAFT

NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

(NEJAC) Public Comment Submission

Name: Eric Aldape, Director of Community Health

Name of Organization or Community: Diesel Health Project

City and State: Kansas City Metropolitan area in Kansas City, Kansas

Telephone Number: (847) 732-6494

E-mail Address: Aldape81080@gmail.com

Brief description of concern:

The Diesel Health Project was formed to protect the health of the community by identifying and documenting environmental and health problems caused by freight transportation (aka Goods Movement) in the Kansas City region, particularly Diesel Exhaust and other pollutants emitted by freight transportation, warehousing, and related activities, and taking action to ensure that the problems are mitigated as early and effectively as possible.

Wyandotte County, home of Kansas City, Kansas, is the most racially diverse county in the Kansas City Metropolitan area, and has the highest poverty rate in the state. It is also home to a large number of heavily polluting industries and sites, including the BNSF Argentine Rail Yard, and its Locomotive Maintenance Facility, at which as many as 50 locomotives idle nonstop, just 1200 feet from residents' homes.

The result? Horrible health impacts on its residents, including an infant mortality rate over 30% higher than the State of Kansas, which has the highest Black infant mortality rate in the US. Wyandotte County also has the highest rate of pediatric asthma and second highest percentage of low weight babies

in the metropolitan area, a very high heart disease rate, and highest Years of Potential Life Lost in the Kansas City metropolitan area.

After speaking with local residents and working to get their voices heard through projects like Storycorps interviews. We heard the community members. Community activist, Leticia DeCaigny, spoke about wanting to be able to go her local parks and playgrounds and breathe clean air. She doesn't want to have to smell the diesel.

Some of our goals at the Diesel Health Project are to educate the public, including community, business, and religious leaders, concerning the environmental and health hazards of Diesel Exhaust Particulate Matter and other pollutants, and how they can be mitigated. We also want to build a coalition of community health, environmental, and other organizations that can share information and combine resources to protect the public from these negative environmental and health hazards. Our team is looking to advocate for and take other actions to encourage the mitigation of health risks posed by existing and planned freight transportation and warehousing projects in order to protect the public. Last, but not least, we hope to enable and empower community members to protect themselves and their families by involving them in Diesel Health Project activities, and helping them obtain the knowledge, skills, and abilities to protect their families.

What you want the NEJAC to advise EPA to do:

Our team is attempting to build a community coalition that is dedicated to working towards community health and environmental justice. We are gathering at a local level to bring together community groups and organizations that have a vested interest in making changes in our community. Our voice is getting stronger and louder every day however, we cannot do it

alone. We ask that the National Environmental Justice Advisory Council advise the EPA to take the following actions:

1. The EPA must act promptly and forcefully to end the deadly diesel emissions plaguing our communities by requiring the use of zero emissions transportation technology.
2. The EPA should adopt a new set of national standards to reduce emissions from freight.
3. The EPA should initiate the Environmental Review Process whenever and wherever freight-related projects are proposed to ensure that the health of communities is protected.
4. The EPA must assist and direct state and local governments to address freight-generated pollution by requiring better planning and providing guidance
5. The EPA should hold regular meetings with affected communities in each of its Regions so that they can help set appropriate emission reduction goals and identify the actions necessary to achieve them.

DRAFT

Name: Christine and Delma Bennett

Organization: Mossville Environmental Justice Now

City, State: Mossville, LA

DRAFT

Hi my name is Christine Bennett, member of MEAN. I am here to challenge the Voluntary Property Purchase Program (“VPPP”). Our community is currently involved in the buyout program. To date, this process has not been fair at all to our community. We are here today to challenge this process. At the end of the day, the VPPP is “*not*” voluntary nor is it just.

In the interest of time, I want to give you this document for the record that shows what we have been subjected to so far. It began with Sasol walking into our community with a plan without our input. No community should ever be subjected to a “voluntary” buyout program without having input into the process from the very beginning. What is very important for us all to know, there was a moment when EPA was in control of this relocation process.

The VPPP is not fair and we are here to request the NEJAC to create a workgroup to investigate this process. MEAN is supported in this request by the Environmental Justice Health Alliance and the Coming Clean national networks.

**Testimony of Christine and Delma Bennett of Mossville
Environmental Justice Now ("MEAN") to the
National Environmental Justice Advisory Council
March 16, 2016**

The Mossville Louisiana residents and their Environmental Justice organization, Mossville Environmental Action Now (MEAN) when Sasol, the South African Oil company, and one of the 14 refineries and chemical processing facilities operating out of the industrial zone near Mossville, presented a Voluntary Property Purchase Program (VPPP) to them.

MEAN had been organizing for over 30 years on behalf of the residents of Mossville on multiple fronts: advocating for environmental justice, educating residents about the health and environmental impacts of toxic pollution; compelling federal and state environmental agencies to enforce human rights laws, and advocating for health services, relocation and pollution reduction to improve the lives and health of residents.

My name is Christine Bennett, member of MEAN, Mossville Environmental Action Now. Our community has been disproportionately affected by the more than 1000 tons of toxins collectively emitted into the air by the industrial plants surrounding the community. MEAN lobbied for many years for a just and fair relocation of our community to a safe, healthy and toxin-free location. The offer made by Sasol in the summer of 2013 "**appeared**" to provide the relief the community desired. Sasol had been approved to commence construction of the first shale gas to liquid processing facility in the country. The company retained the services of an outside consultant that specializes in facilitating community

property purchases for the energy and chemical industries to work a community process with Mossville residents and MEAN.

More than 2 years later, MEAN members recognize that Sasol has not fulfilled the promises it made to them, and the VPPP is anything but just and fair.

What Sasol Promised

The VPPP contained several promises:

- Appraisal of properties would be based on size and nature of improvements (structures) on the property, not the condition of either;
- Appraisals would take subjective issues into consideration;
- The program is voluntary. No one would be forced out.

Because of these promises, and the regular meetings the company initiated with the community of Mossville, through CIC, many of MEAN's allies, including ICCR, Trillium Investment, and others, have lauded Sasol for their willingness to meet with the community and "listen to community concerns" about the VPPP. And even MEAN believed that Sasol might behave differently than the majority of companies polluting their community. In the end, these meetings have been a sham that occupied residents' attention without providing meaningful acknowledgement or solutions to key demands.

These voluntary purchase programs are not uncommon in communities under threat from the spills, emissions and expansion plans of the petrochemical industry. The fairness of these programs is not well documented. Mossville's

analysis of their experience can serve as a model for other communities.

Mossville Residents Treated Unfairly

MEAN members have carefully tracked the experience of Mossville residents in their negotiations with Sasol. MEAN can show:

- Mossville residents were told that the guaranteed offer of no less than \$100,000 for property owners, based on buyouts of Bel Air and the Diamond community of Norco, was the highest buyout in the country... for a minority community.
- Real estate appraisals were not conducted in the way Sasol promised. Rather than judging strictly on lot size and the nature of the improvements, for example, a house with 3 bedrooms and 1 bath, regardless of their condition, MEAN members report residents being told by representatives of the consulting firm, "Your appraisals could have been a lot better if you had done your job." There is no evidence that Sasol did their due diligence in guaranteeing this vital condition for establishing settlement amounts was met.
- Subjective issues were not taken into account, such as the predatory real estate market created by Sasol's buyout and the immediate relocation needs of residents, both owners and renters. Renters have been especially vulnerable to rent increases since the VPPP began.
- Mossville will forego residential zoning protection: In May 2014 the Calcasieu Parish Police Jury granted Sasol's request to rezone the whole area as heavy industrial, despite the company's previous assertions that those who wanted to stay would have regular residential

protections. It appears from the situation of Stacey Ryan, a Mossville homeowner

(<http://www.sierraclub.org/planet/2015/07/louisiana-man-takes-stand-against-petrochemical-giant>) who has

refused the Sasol buyout, that health and safety guarantees afforded residential residents, such as access to all roads and public right of ways, access to sewer services, and electricity, are no longer available under the heavy industrial zoning designation.

- Many younger people, working in the Lake Charles industrial area built homes and acquired mortgages. They are reluctant to leave, and are receiving inadequate buyout offers with no offer of mortgage assistance, as has been the case in other petrochemical industry voluntary purchase programs, such as in Midland Michigan.

Most significant is the way buyout negotiations have allowed the other refineries and chemical processing facilities off the hook for the damage to Mossville residents' health, water and land. Delma Bennett, Treasurer of MEAN, stated, "The issue we were fighting was our health problems caused by the refineries in our area. It has become just about Sasol, and that's not fair. There are too many people who died, too many people got sick, and that's not fair. We don't even talk about the pollution anymore." The burden of industrial toxins on the human body does not just disappear when someone relocates. The effects are long lasting. There are no provisions for tracking the health and well-being of Mossville residents post-relocation. Equally unsettling, Calcasieu Parish and state have enabled the expansion of the industrial zone deeper into Mossville, allowing Matheson Tri Gas to relocate over the fence line into Mossville. In

addition, the state of Louisiana has facilitated state the construction of an additional ethane cracker plant by Axiall and a new monoethylene glycol plant (MEG) by their partner, Lotte Chemical. This will increase the burden of industrial toxins on the surrounding communities.

MEAN and Mossville residents have gone the extra mile to engage Sasol's process. That engagement ends now.

MEAN wants the public to understand that Sasol, incorporated in South Africa, having established segregated villages for its workers there, should be held accountable for a fair, justice and equitable buyout of Mossville residents.

MEAN has the following four demands:

1. Enhance the VPPP program in 3 ways:

- Give every homeowner replacement cost for their home that is comparable to the present market and that meets all the needs of the resident.
- Increase minimum buyout price of property to be comparable to middle class areas.

Give every homeowner \$100,000.00 across the board. This additional payment will be provided to every Mossville homeowner regardless of his or her participation in or acceptance of an offer as part of the VPPP.

2. Request IRS to forgive the taxes on all property sold to Sasol.

3. Provide for pain and suffering caused by Sasol's unfair and unjust process:

- Develop a scholarship fund for Mossville youth, including the children and grandchildren of Mossville residents.

- Pay heritage value for disruption of family and community life and the destroying of an African American community founded by a freed slave.
- Establish a historical monument marking the site of Mossville and guarantee its preservation and the ability of the public to access it.
- Provide a health clinic for the Mossville residents.

4. Guarantee preservation, maintenance and the ability to continue to bury and access to cemetery sites that will remain in Mossville.

Name: Jeannie Economos

Organization: Farmworker Association of Florida

City, State: Apopka, FL



The Farmworker Association of Florida
La Asociación Campesina
Asosiyasyon Travayè Latè

1264 Apopka Boulevard • Apopka, FL 32703
(407)886-5151 phone • (407)884-6644 fax
www.floridafarmworkers.org

March 7, 2016

National Environmental Justice
Advisory Council
c/o Karen L. Martin, EPA

Re: Public Comment to NEJAC for Public Meeting March 16-17, 2016

Dear NEJAC members:

The Farmworker Association of Florida is submitting these public comments regarding the impacts of climate change on the health and living and working conditions of the nation's agricultural workers. Farmworkers are often overlooked as an environmental justice community. Yet, there is no sector of the community that is more vulnerable than the families that work and live in rural agricultural areas and that perform some of the most important work in the country – feeding America.

“Agricultural workers” encompasses a large community of individuals and families that work in a variety of crops and settings and in various states across the nation. From apple orchards and citrus groves; to vegetable farms and ornamental plant nurseries; to strawberry fields, tobacco farms, mushroom plants, and Christmas tree plantations, farmworkers across the U.S. have many things in common, including low, often below-poverty wages and dangerous working conditions. In addition, most live in rural areas, work outdoors or in enclosed greenhouses, and are exposed to agricultural chemicals, including synthetic fertilizers and pesticides. The majority of farmworkers today are Hispanic, including indigenous members of communities in Mexico, El Salvador, Honduras and Guatemala, who may speak a language other than Spanish as their first language. A large percentage includes undocumented immigrants, whose immigration status often subjects them to greater workplace intimidation and harassment. Farmworkers are often found living in substandard housing in potentially unsanitary surroundings. These things alone put farmworkers at risk for health and safety problems in the course of their daily lives.

The effects of climate change are already being felt by farmworkers and serve only to exacerbate the already dangerous work and home environments common to most farmworkers. Most notably, increased daily temperatures and exposure to high indoor and outdoor heat and direct sunlight put farmworkers at greater risk for heat stress, heat and sun stroke, and even death, as in several tragic incidents in California in recent years. The pressures of working “piece rate” or by production can mean that farmworkers are either not given frequent breaks or do not take enough breaks to drink water and stay hydrated, which can lead to acute health symptoms and result in long-term kidney damage. Temperature shifts and climate change can lead to increased pest problems and increased pesticide use, thus, exposing farmworkers to more dangerous chemicals. Pesticide residues persist longer in higher temperatures and in dry climates, putting farmworkers at greater risk of contact with

pesticide residues and their metabolites. Personal protective equipment is more cumbersome and uncomfortable in hot environments, increases body temperatures when worn in high temperatures, all of which makes it more problematic for farmworkers to wear the necessary protective gear in work conditions when they, in fact, may need it the most.

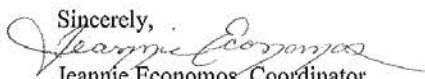
Drought, climate zones shifts, adverse weather events, such as unseasonable freezes, unusually heavy rainfall, and natural disasters, can all have an impact on the agricultural industry, which in turn affects the lives and livelihoods of our nation's farmworkers. Families with no economic safety net are not easily adaptable to drastic circumstances influencing their incomes and their jobs. Most farmworkers do not qualify for disaster unemployment insurance after natural disasters, and those that do qualify often need to travel to the next location – having not earned enough or any income – to harvest the next seasonal crop. This could create a tremendous hardship for migrant farmworker families, in addition to seasonal farmworkers dependent on peak season work.

Vulnerable farmworkers living in remote, rural areas, many times with no personal transportation, may live in housing that is unsuitable to even normal weather conditions, much less more severe events, such as extreme heat, unusual rainfall patterns, high winds and/or natural disasters. They are often overlooked by relief agencies, such as FEMA and the Red Cross, in the aftermath of natural disasters. FWAFF has first-hand experience of doing disaster response to farmworker communities in the wake of tornadoes, hurricanes, and flooding in various areas around our state, from Hurricane Andrew in South Florida, to Hurricanes Jeanne and Charlie in 2004. The potential for an increase in these events with the advent of climate change puts farmworker families in danger. Less immediately severe, but potentially equally as dangerous is the issue of access to safe, clean drinking, handwashing and bathing water in drought-prone areas or in flooded areas where the water supply may have become contaminated. Unsanitary conditions could, thus, result in increased risk for disease, especially for those with no disposal income with which to purchase such things as bottled water in case of emergency.

These are among the issues that farmworkers face from climate change impacts in the United States. We are calling on the NEJAC to factor these considerations into the overall recommendations by the NEJAC to the EPA. Farmworkers are a distinct, but ultimately extremely vulnerable, population that needs consideration by the agency in the many ways in which this community will be and is being affected. One action that the EPA can take to help address at least one aspect of these threats is to phase out organophosphate and other highly toxic pesticides with long lived residues to protect farmworkers from prolonged exposure in adverse and extreme heat environments. Promotion of safer alternatives to these pesticides is among the many avenues the EPA must be factoring into the health and safety of this environmental justice community.

The Farmworker Association of Florida is a 33-year old, statewide, grassroots, non-profit, farmworker membership-based organization with over 10,000 farmworker members who work in the vegetable, citrus, mushroom, sod, fern and foliage industries in 15 counties in Florida.

Thank you for your time and attention.

Sincerely,

Jeannie Economos, Coordinator
Pesticide Safety and
Environmental Health Project

Name: Angelo Logan - Organization: Moving Forward Network



Chair Margaret J. May
Att: Karen L. Martin
1200 Pennsylvania Avenue,
NW (MC 2201A), Washington, DC 20460
martin.karenl@epa.gov

March 7, 2016

Re: Urge EPA to Take Action on Freight Recommendations

Dear Chair May,

On behalf of the Moving Forward Network (the Network), **we are requesting that NEJAC ask EPA to take action on the recommendations outlined in the Networks letter to EPA in December 2015** (attached). The Network is a national coalition of over 45 member organizations including community-based groups, national environmental organizations, and academic institutions in over 20 major U.S. cities that are committed to reducing the public health harms created by our country's freight transportation system. Network members include individuals who live in and work directly with environmental justice communities.

At NEJAC's last gathering in San Diego, California, our members articulated how deadly diesel emissions from the goods movement system harms their health, and we encouraged NEJAC to support a zero-emissions freight transportation system. We also requested that NEJAC partner with the Network to (1) request that EPA direct each of its ten regions to identify and prioritize communities maximally exposed to goods movement air pollution, and make plans for taking action; and (2) support the development and release of the Environmental Justice Strategic Enforcement Screening Tool (EJSCREEN).

We now write to ask for your continued support. In December 2015, the Network submitted a letter to Administrator McCarthy asking that the agency prioritize reducing diesel emissions from the freights system, and outlined recommendations for reducing such pollution. Specifically, in our letter, a copy of which is enclosed, we asked that EPA:

- Adopt a new set of national standards to reduce emissions from the freight sector;
- Commit to robust engagement in the environmental review process for freight projects;
- Assist and direct state and local governments to reduce freight-generated pollution as part of the state implementation plan process; and
- Direct each of its ten regional offices to identify and prioritize actions in communities maximally exposed to or affected by goods movement facilities and activities

These recommendations are discussed in detail in the enclosed letter to the Administrator. **We request that NEJAC urge EPA to take action on each of our recommendations outlined in**

our December 2015 letter. If adopted, these recommendations will meaningfully improve air quality and public health in numerous communities across the country.

Tens of millions of Americans who live near ports, railyards, distribution centers and busy truck corridors are exposed to toxic diesel pollution. Over the course of this past year, the Network has met with congressional leaders who are also encouraging EPA to curb deadly diesel emissions, and articulated the need to curb this pollution in comment letters related to EPA's EJ 2020 Plan, EPA's proposed Phase 2 greenhouse gas emissions standards for heavy-duty trucks, the Federal Interagency Working Group on Environmental Justice's Draft Action Agenda Framework (2016-2018), and EPA's voluntary ports initiative (led by a subcommittee to EPA's mobile source toxic review subcommittee). Our members have also met with EPA Regional Administrators to educate them on the localized harms from the freight sector and to encourage ongoing dialogue with frontline communities. We need your continued support to encourage EPA to protect these communities and to advance environmental justice. Thank you in advance for your efforts.

If you have any questions about the Moving Forward Network or this letter, please contact Angelo Logan at alogan@oxy.edu or 213-258-5157.

Sincerely,

Angelo Logan

cc: Matthew Tejada
Mustafa Ali

Enclosure: Moving Forward Network Letter to Administrator McCarthy (December 7, 2015)



December 7, 2015

Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
Email: Mccarthy.gina@epa.gov
Fax: 1-202-501-1450

Dear Administrator McCarthy:

The Moving Forward Network (the Network) writes to request a meeting with you and your staff in January 2016 to discuss actions that EPA can take to address the devastating health and environmental consequences that freight activities impose on communities across the country. We also invite you to address the Network at our annual gathering in February 2016 before the New Partners Smart Growth Conference in Portland, Oregon. In anticipation of these meetings, we have attached information on how freight-related emissions adversely affect the health of environmental justice communities, and detail actions that EPA should take to reduce these effects.

As you may recall, in July 2015, we introduced the Network to you via letter and campaign video [here](#). The Network is a national coalition of over 44 member organizations including community-based groups, national environmental organizations, and academic institutions, in over 20 major U.S. cities, representing over 2 million members, committed to reducing the public health harms created by our country's freight transportation system. Importantly, Network members include individuals who live in and work directly with environmental justice communities.

Over this past year, we have communicated our advocacy platform to EPA Regional Administrators, before the National Environmental Justice Advisory Committee, and in comments on EPA's EJ2020 Plan, EPA's proposed Phase 2 greenhouse gas emissions standards for heavy-duty trucks, the Federal Interagency Working Group on Environmental Justice's Draft Action Agenda Framework (2016-2018), and EPA's voluntary ports initiative (developed by a subcommittee to the Mobile Source Toxic Review Subcommittee). We mention these efforts to underscore that we are eager to work with the Agency to prioritize reducing air pollution from the national freight transportation system.

Thank you for your consideration. We look forward to hearing from you.

Angelo Logan
Campaign Director
Moving Forward Network

Azibuike Akaba
Policy Analyst
West Oakland Environmental Indicators Project

Jesse Marquez
Executive Director
Coalition for a Safe Environment

Deborah Kim Gaddy
Environmental Justice Organizer
Clean Water Action (NJ)

Juan Parras
Executive Director
Texas Environmental Justice Advocacy Services

Eric Kirkendall
Director
Diesel Health Project, Inc.

Melissa Lin Perrella
Senior Attorney
Director of Western Air Quality and Environmental Justice
Natural Resources Defense Council

Bruce Strouble
Director of Operations
Citizens for a Sustainable Future, Inc.

Andrea Hricko, MPH
Professor of Clinical Preventive Medicine,
*University of Southern California
Keck School of Medicine

*Organization for identification purposes only

Enclosure

cc: Matthew Tejada
Mustafa Ali



RECOMMENDATIONS FOR PROTECTING COMMUNITIES FROM FREIGHT OPERATIONS AND MOVING TO ZERO-EMISSIONS

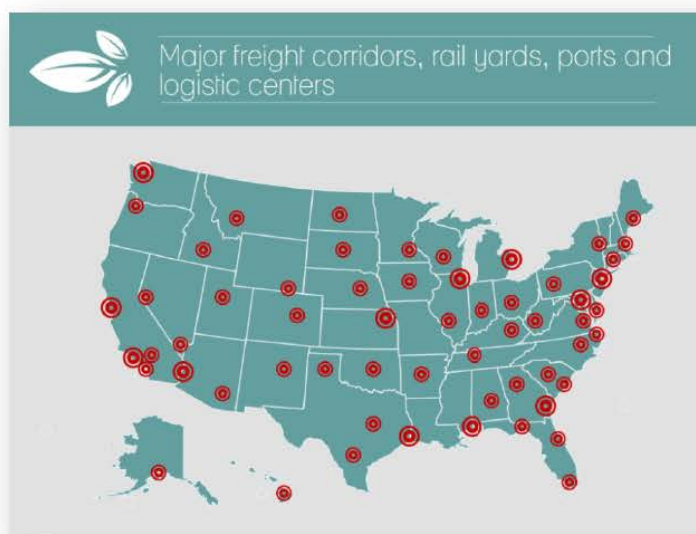
BACKGROUND

I. Freight Emissions Jeopardize the Health of Environmental Justice Communities

A. Freight Operations Emit Deadly Diesel Exhaust and Contribute to Global Climate Change

Nearly a decade ago, EPA recognized that more than 13 million people (3.5 million of whom are children) live near major marine ports or rail yards, and that these individuals are disproportionately low-income communities of color and susceptible to increased health risks from air pollution.¹ These figures do not include the approximately 45 million individuals who live within 300 feet of a highway² or close to large distribution centers where diesel emission sources congregate.

Conventional cargo movement relies on diesel powered ships, trucks, and trains that emit dangerous particulate matter (PM) and nitrogen oxides (NO_x). These operations are happening in regions that already violate federal clean air standards.³ The American Association of Port Authorities has identified nearly 40 U.S. ports that reside in counties that are designated non-attainment for the federal ozone and PM 2.5 standards.⁴ In Southern California, for example, diesel pollution at the ports of Los Angeles and Long Beach represents 20% of the region's air pollution.



¹ Office of Transportation and Air Quality (OTAQ), U.S. Environmental Protection Agency (EPA), *Regulatory Impact Analysis: Control of Emissions of Air Pollution from Locomotive Engines and Marine Compression Ignition Engines Less than 30 Liters Per Cylinder*, EPA420, pp. 2-57 (March 2008). Available at: <http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2003-0190-0938>.

² See Office of Transportation and Air Quality (OTAQ), EPA, *Near Roadway Air Pollution and Health* (May 22, 2015). Available at: <http://www.epa.gov/otaq/nearroadway.htm>.

³ International Agency for Research on Cancer (IARC), World Health Organization (WHO), *IARC: Diesel Engine Exhaust Carcinogenic*, p. 1 (June 12, 2012). Available at: http://www.iarc.fr/en/media-centre/pr/2012/pdfs/pr213_E.pdf.

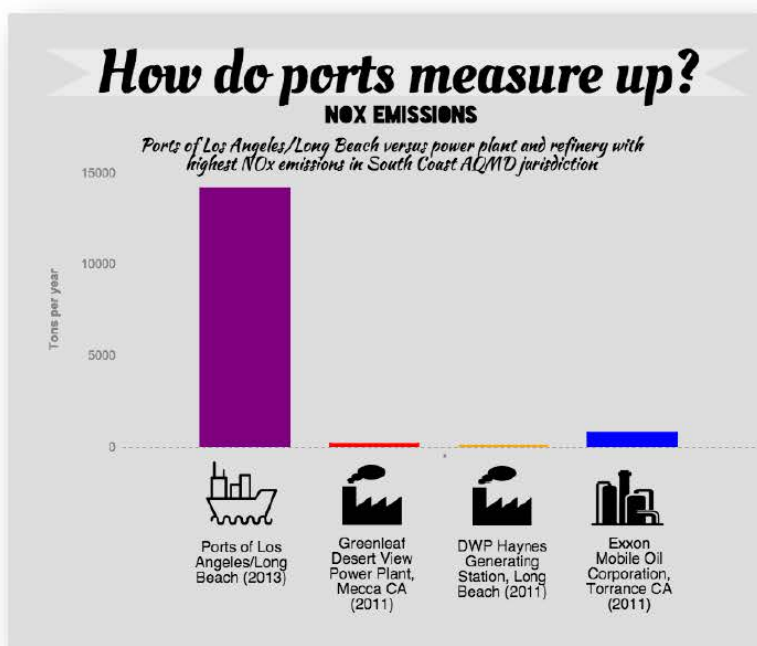
⁴ American Association of Port Authorities (AAPA), *Port Communities in Non-Attainment Areas for National Ambient Air Quality Standards* (2013). Available at: <http://www.aapa-ports.org/Issues/content.cfm?ItemNumber=1278>.

Epidemiologic studies have consistently demonstrated that children and adults living in close proximity to sources of air pollution, such as busy roadways, have poorer health outcomes, including but not limited to:

- Asthma, poor lung development, and other respiratory diseases;
- Cardiovascular disease;
- Lung cancer;
- Pre-term births and infants with low birth weight; and
- Premature death.

These health outcomes increase illness and death, emergency room visits, doctor visits, hospital admissions, and missed school days. In June 2012, the International Agency for Research on

Cancer, a part of the World Health Organization, classified diesel engine exhaust as carcinogenic to humans after determining that there was “sufficient evidence that exposure is associated with an increased risk for lung cancer.”⁵ EPA itself has listed diesel particulate matter as a mobile source air toxic.



Note: This figure compares combined Port of Los Angeles and Port of Long Beach NOx emissions with the highest NOx refinery and power plant in South Coast Air Quality Management District (SCAQMD) jurisdiction, which includes the South Coast and Salton air basins. Since the power plant with the highest NOx emissions in SCAQMD jurisdiction is in the Salton air basin rather than the South Coast air basin, a high-emitting power plant close to the ports (DWP Haynes Generating station) is also included.⁶

⁵ International Agency for Research on Cancer (IARC), World Health Organization (WHO), *LARC: Diesel Engine Exhaust Carcinogenic* (June 12, 2012). Available at: http://www.iarc.fr/en/media-centre/pr/2012/pdfs/pr213_E.pdf.

⁶ By way of example, if the combined Ports of Los Angeles and Long Beach were a power plant, it would be the 21st most polluting power plant in the United States in terms of NOx.

Freight operations also produce greenhouse gases like carbon dioxide (CO₂), which trap heat in the Earth's atmosphere and contribute to global climate change. Freight transport in 2013 was the third largest category of CO₂ emissions, and contributed 10.2% of all CO₂ emissions from fossil fuel combustion.⁷ Only electricity generation from coal and on-road mobile source combustion (excluding freight trucks) contribute more, at 30.5% and 20.3% respectively.⁸ Emissions from freight in the U.S. are on par with *total* 2010 CO₂ emissions from countries like France (513 MMT CO₂ Eq) and Australia (560 MMT CO₂ Eq).⁹

Global climate change is a serious threat to the health and well-being of the planet. Greenhouse gases released by freight movement, by contributing to climate change, may increase heat-related illness (i.e., illnesses such as heat stroke that result when a body's temperature control system is overloaded) and death, health effects related to extreme weather events, health effects related to air pollution, water-borne and food-borne diseases, and vector-borne and rodent-borne disease.

B. Low-Income Communities and Communities of Color are Disproportionately Exposed to Freight-Generated Emissions

In 2007, ICF International conducted a study for EPA looking at the demographics of populations living near U.S. ports and rail yards.¹⁰ The study analyzed who is exposed to significant levels of diesel particulate matter (DPM), as defined as levels that exceed 2.0 ug/m³.¹¹ ICF found that of households and populations living near U.S. ports and rail yards in 2000, there was a greater proportion of people earning lower incomes (<\$10,000 and \$10,000-\$29,999) and of Black and Hispanic race/ethnicity as compared to proportions in the nation as a whole.¹²

Another study examined demographic disparities in *exposure* at U.S. harbors.¹³ Based on data from 43 ports and Census 2000 figures, results suggest that over 4 million people in the U.S. are exposed to port-related DPM concentrations that exceed a 100-per-million carcinogenic health risk if the exposure concentration were maintained for 70 years.¹⁴ With respect to income and race the study revealed the following:

Income (of population exposed to concentrations exceeding a 100-per-million carcinogenic health risk):

⁷ U.S. Environmental Protection Agency, *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2013*, EPA 430-R-15-004, p. ES-26 (April 15, 2015). Available at: <http://www3.epa.gov/climatechange/Downloads/ghgemissions/US-GHG-Inventory-2015-Main-Text.pdf>.

⁸ *Id.*

⁹ CAIT Climate Data Explorer, *Country GHG Emissions*, World Resources Institute (2010). Available at: <http://cait.wri.org/>.

¹⁰ ICF International, *ICF International Memorandum EPA-HQ-OAR-2003-0190-0744 Re: Estimation of Diesel Particulate Matter Population Exposure Near Selected Harbor Areas and Rail Yards (revised)* (September 28, 2007).

¹¹ 2.0 ug/m³ is the lower end of the range of occupational exposures where increased cancer risk was found and a level that EPA uses as a threshold for identifying areas with poor air quality. *Id.*; United States Environmental Protection Agency, *2014 DERA Ports RFP List of Areas of Poor Air Quality* (September 16, 2014). Available at: <http://www3.epa.gov/otaq/ports/documents/fy14-ports-county-area-list.pdf>.

¹² *Id.*

¹³ Rosenbaum A. et al., *Analysis of Diesel Particulate Matter Health Risk Disparities in Selected US Harbor Areas* (December 2011). Available at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3222501/#bib2>.

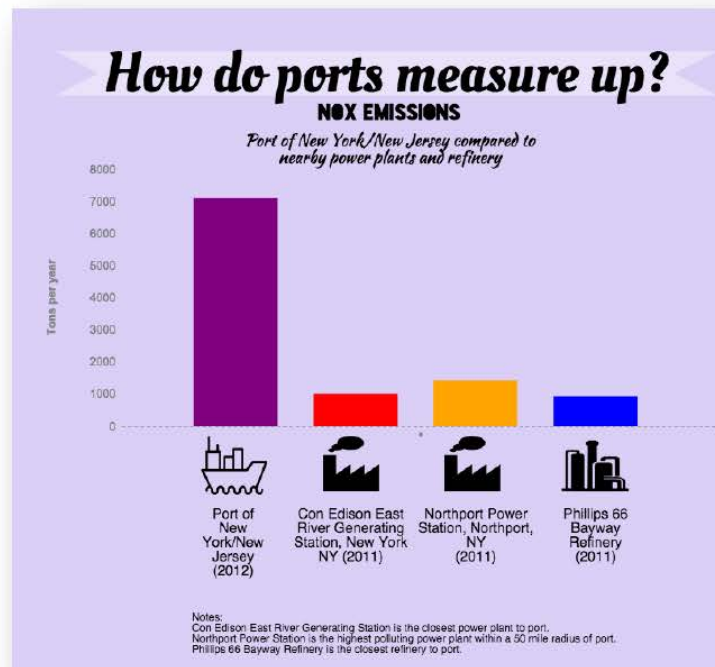
¹⁴ *Id.*

- Almost two times more low-income households (i.e., 1999 incomes less than \$10,000) are exposed to dangerous levels of DPM than the proportion of low-income households in the U.S. population as a whole.
- In Oakland, CA and Nashville, TN, the proportion of low-income households facing this high risk is more than 5 times the proportion of low-income residents in the metropolitan area.
- In Cincinnati, OH, the proportion of low-income households facing this high risk is more than 4 times the proportion in the metropolitan area.
- In Cleveland, OH and Paulsboro, NJ, the proportion of low-income households facing this high risk is more than 3 times the proportion in the metropolitan area.

Race (of population exposed to concentrations exceeding a 100-per-million carcinogenic health risk):

- Blacks made up a proportion of the high-risk population that was 3 times their proportion of the U.S. population
- Hispanics made up a proportion of the high-risk population that was twice their proportion of the U.S. population
- In Oakland, CA, the proportion of Blacks exposed to these concentrations was more than 7 times the proportion in the metropolitan area.
- In Gary, IN, the proportion of Blacks exposed to these concentrations was more than 5 times the proportion in the metropolitan area.
- In Chicago, IL and Nashville, TN, the proportion of Blacks exposed to these concentrations was more than 4 times the proportion in the metropolitan areas.
- In Paulsboro, NJ, the proportion of Hispanics was more than 6 times the proportion in the metropolitan area.
- In Cleveland, OH, the proportion of Hispanics was more than 5 times the proportion in the metropolitan area.

Further, an analysis of demographics of people living near busy terminals at the Port of New York/New Jersey shows that there is a higher share of minority and low-income households living near that port than in the state of New Jersey and the NY/NJ metropolitan area. Specifically, 87.9% of the individuals living



within 300 meters of the Port of Elizabeth, Port of Newark and Howland Hook, NY container terminals are considered “minority,” in comparison to 40.7% in the state of New Jersey and 51.1% in the NY/NJ metropolitan area.¹⁵

C. Freight Operations are Increasing—Further Threatening Public Health

All signs indicate that freight operations will intensify over the coming decade, potentially affecting even more individuals and contributing to violations of clean air standards, as well as creating toxic hot spots. By 2020, the total volume of cargo shipped by water is expected to be double that of 2001 volumes.¹⁶ By way of example, in 2020, the Ports of Los Angeles and Long Beach are expected to handle the equivalent of 36 million 20-foot containers annually - more than twice the container volume flowing through these two ports in 2007.¹⁷ Further, the Panama Canal expansion will be completed in April 2016.¹⁸ Ports in the eastern U.S. and elsewhere have been expanding to accommodate more container volume, and some of the biggest ships in the world are able to carry up to 14,000 containers. These expansion projects could shift where international cargo is moved—exacerbating existing pollution in some areas and creating new impacts in others.

Further, with the tightening of the federal ozone standard, we can expect that diesel-powered ships, trucks, trains and equipment used to sustain freight operations will pose attainment problems for many regions.

RECOMMENDATIONS

II. EPA Must Take Action to Address Freight Pollution

The devastating impacts of freight operations require elevation within EPA. In 2009, EPA’s National Environmental Justice Advisory Council (NEJAC) provided 41 recommendations for EPA action.¹⁹ To date, however, EPA has failed to adopt any targeted strategy for reducing emissions from the freight sector to the degree necessary to protect public health. As a result, the health crises in these communities persist and threaten to get worse with increasing freight activity.

EPA must identify reducing freight-related air pollution as a top priority for the Agency. Tackling such pollution will further the Agency’s air quality, climate and environmental justice goals. EPA must adopt new national standards for freight-related sources and provide more guidance to states with freight-related activities in areas that violate national air quality standards and/or produce localized health risks. EPA should direct each of its regional offices to identify and prioritize actions in communities maximally exposed to or affected by goods movement-related facilities and

¹⁵ Based on 2010 Census (population, race, ethnicity) and 2006-2010 American Community Survey (income, poverty).

¹⁶ American Association of Port Authorities (AAPA), *U.S. Port Industry, America’s Ports: Gateways to Global Trade*. Available at: <http://www.aapa-ports.org/Industry/content.cfm?ItemNumber=1022>.

¹⁷ Testimony of Dr. Geraldine Knatz, Executive Director, The Port of Los Angeles, on S.1499, *The Marine Vessel Emissions Reduction Act of 2007*, before the Senate Committee on Environment and Public Works. (August 9, 2007).

¹⁸ The Maritime Executive, *Panama Canal Expansion 95 Percent Complete* (November 19, 2015). Available at: <http://maritime-executive.com/article/panama-canal-expansion-95-percent-complete>.

¹⁹ National Environmental Justice Advisory Council (NEJAC), *Reducing Air Emissions Associated with Goods Movement: Working Towards Environmental Justice* (September 2009). Available at: <http://hydra.usc.edu/scehsc/web/Resources/Reports%20and%20Publications/NEJAC%20Good%20Movement%2009%20Final%20Report.pdf>.

activities. EPA's EJSCREEN, a review of recent scientific literature on diesel exhaust, and collaboration with community partners will be keys to this process. As part of these efforts, EPA should foster regular meetings in each region with environmental justice communities adversely affected by freight-related air pollution, and identify short-term and long-term goals that address the unique needs of each community while aiming to clean-up the freight system as a whole.

Additional details on the actions needed from EPA are outlined below.

A. EPA Should Adopt Regulations to Reduce Emissions from the Freight Sector

EPA must prioritize promulgation of the next generation of national emission standards for freight-related sources. As discussed below, while the Network believes there are significant activities that states can and should pursue to address freight-related impacts at the local level, these efforts will be unsuccessful in most areas without additional national rulemaking. The following national rules should be prioritized within EPA:

- National Standards for Heavy-Duty Trucks. The Network has submitted comments on EPA's proposed Phase 2 greenhouse gas emissions standards for heavy-duty trucks encouraging the adoption of incentives for advanced zero-emissions technologies and addressing particulate emissions from auxiliary power units. In addition, EPA should promptly adopt new nitrogen oxide (NOx) emission standards for heavy-duty trucks. Engine manufacturers have demonstrated compliance with California's voluntary NOx standard of 0.02 grams per brake horsepower hour, and the next generation of national standards should codify this standard as feasible.
- New Standards for Ocean Going Vessels. EPA should pursue a next generation of NOx and particulate matter standards. Foreseeable technologies such as liquefied natural gas (LNG) engines, selective catalytic reduction (SCR), and more general engine efficiency improvements hold the potential to reduce NOx emissions by another 90 percent below current standards.
- National Standards for Locomotive Engines. EPA should also adopt Tier 5 standards for new locomotive engines. Technologies such as LNG engines and after-treatment such as SCR can achieve significantly lower NOx and PM limits. Moreover, technologies now exist to enable zero-emission track miles. The next generation of standards should reflect the feasibility of these technologies and incentivize development and deployment of advanced zero-emission technologies.

Either as part of a Tier 5 rulemaking or an earlier rulemaking, EPA should also revise its definition of "new" locomotive engines to enable states to adopt more stringent standards for existing sources where needed to address air quality problems associated with local freight activities.

- National Indirect Source Review Rule. An indirect source is defined in the Clean Air Act as a facility that attracts mobile sources of pollution. 42 U.S.C. § 7410(a)(5)(C). Freight hubs such as ports, railyards and distribution warehouses are indirect sources. The Clean Air Act allows EPA to adopt and enforce indirect source review rules for highways,

airports and other major federally assisted indirect sources. *Id.* § 7410(a)(5)(B). As discussed further below, state and local rules can target other indirect sources and would benefit from a federal model. EPA should use its authority to set standards to improve operational efficiencies at federally assisted freight hubs and incentivize the development and deployment of zero-emission technologies.

B. EPA Should Engage in the Environmental Review Process to Encourage Cleaner, Health-Protective Infrastructure Projects

In June 2012, the U.S. Army Corps of Engineers' Institute for Water Resources issued a report stating that expected increases in population and income will drive increased trade, with imports expected to grow more than fourfold and exports expected to grow more than sevenfold over 30 years.²⁰ In response to this increase in trade, the freight industry has been expanding its operations. "The railroad industry has been investing \$6-8 billion a year over the last decade to modernize railways and equipment, and U.S. ports plan public and private-sourced landside investments of the same magnitude over each of the next five years. Annual spending on waterside infrastructure has been averaging about \$1.5 billion."²¹

EPA is frequently asked to participate in state and federal environmental review processes (e.g., NEPA process) for major infrastructure projects, including proposed federal highway projects, channel deepening projects, bridge raising projects, and terminal expansion projects. EPA must advocate for environmental justice, mitigation, and transparency in these processes, especially where such projects will adversely affect communities already disproportionately impacted by freight and other industrial sources. By so doing, EPA can ensure that air pollution and cumulative impacts are accurately identified, and encourage the use of cleaner vehicles and equipment during the construction and operational phases of the project.

C. EPA Must Assist and Direct State and Local Governments to Address Freight-Related Pollution

EPA should also prioritize supporting state and local actions to address freight pollution in areas that violate the national ambient air quality standards and/or create toxic "hot spots." This support should include new requirements to assess air pollution contributions from freight activities, and guidance on legal authorities and regulatory tools to control freight-related activities, and incentive funding strategies.

- Require Better Planning Inventories of Freight Activities. As the 2009 NEJAC recommendations highlighted, there is a basic need to identify facilities of concern and engage the communities around those facilities in formulating solutions. Unfortunately, the current approach to state implementation planning does not facilitate that sort of facility-based assessment. For example, emissions inventories typically quantify the emissions from various categories of sources including heavy-duty trucks and

²⁰ U.S. Army Corps of Engineers, *U.S. Port and Inland Waterways Modernization; Preparing for Post Panamax Vessels*, p. iii (June 20, 2012). Available at: http://www.iwr.usace.army.mil/Portals/70/docs/portwaterways/rpt/June_20_U.S._Port_and_Inland_Waterways_Preparing_for_Post_Panamax_Vessels.pdf.

²¹ *Id.* at p. vi.

locomotives without providing information on how those emissions are aggregated at freight hubs. The result is that state implementation plans typically fail to adequately inform the public about hot-spots of concern and, as a result, also typically fail to explore the unique opportunities for addressing those locations where these sources are densely active.

EPA should require that states and local agencies identify and quantify emissions from the freight sector including freight mobile sources (ships, trucks, trains, cargo handling equipment), freight facilities (ports, railyards), and freight support facilities/destinations (chassis storage yards, container storage yards, inspection facilities, fumigation facilities, maintenance facilities, fueling locations). Without such information, it is impossible to determine how much air pollution is created by freight operations, the extent to which freight operations create localized health risks, and whether freight operations significantly contribute to a region's federal nonattainment status. Without such data, it is also difficult to advocate for and devise control measures, including reasonably available control measures required under the Clean Air Act. EPA has authority to revise how inventories are prepared in order "to assure the [nonattainment plan] requirements . . . are met." 42 U.S.C. § 7502(c)(3). EPA can also require these facilities to prepare their own emissions inventories for use in state planning as a condition of receiving federal incentive funds for freight-related projects.

- Provide Guidance on Control Options Available to State and Local Authorities to Address Pollution from Freight Activities. States with areas that fail to meet the national ambient air quality standards (NAAQS) must prepare state implementation plans that include control measures necessary to bring the area into compliance with the national standards. At a minimum, these plans must "provide for the implementation of all reasonably available control measures" (RACM). 42 U.S.C. § 7502(c)(1). EPA has explained that, in fulfilling the RACM requirement, states must consider controls not only on stationary sources, but area and mobile sources as well. *See, e.g.,* Memorandum from Roger Strelow, Asst. Admin Air and Waste Mgmt., EPA to EPA Regional Administrator (Dec. 9, 1976)²²; *see also* 80 Fed. Reg. 15340, 15371 (Mar. 23, 2015) (proposed PM_{2.5} implementation rule). The failure to consider mobile source measures in the RACM analysis has been found to be a violation of the Clean Air Act. *See Sierra Club v. EPA*, 294 F.3d 155, 162-63 (D.C. Cir. 2002) (vacating EPA approval of plan for D.C. area based on failure to consider measures such as retrofitting trucks and buses and controlling airport ground support equipment). EPA, however, has provided little guidance on current options for mobile source measures that states should consider in fulfilling the RACM requirement.

The keys to cleaning up freight pollution will be (1) the advancement of zero-emission technologies in trucks, trains, marine vessels and a wide variety of cargo handling and ground support equipment, (2) the advancement of ship and locomotive emission capture and treatment technologies, and (3) the turnover or retrofit of dirty legacy vehicle and equipment fleets. Too often, state and local air districts assume that because the sources of emissions at freight facilities are mobile sources, state or local agencies have no authority to regulate because the Clean Air Act preempts certain non-federal

²² Available at: http://www.epa.gov/ttn/naaqs/aqmguide/collection/cp2/19761209_strelow_ract.pdf.

standards on mobile sources. *See* 42 U.S.C. § 7543(a) and (e). The reality is that state and local agencies have a number of tools available to them to control pollution from freight sources. To address the growing problems associated with freight activities, EPA should issue guidance to assist states in their evaluation of control options.

The Clean Air Act preempts only standards on new engines and vehicles. 42 U.S.C. § 7543(a) and (e). States and local agencies are not precluded from regulating existing engines and vehicles, for example by controlling the use of such engines or vehicles. States can also adopt measures that regulate the facilities that attract mobile sources. 42 U.S.C. § 7410(a)(5). Nor does the preemption extend to controls on the purchasing decisions of public entities. *See Engine Mfrs. Ass'n v. South Coast Air Quality Management Dist.*, 498 F.3d 1031, 1045-49 (2007). Finally, while states are generally precluded from adopting standards for new engines and vehicles that are more stringent than federal standards, California is not, and states with nonattainment problems are free to adopt standards that are identical to more stringent California standards. 42 U.S.C. §§ 7507 and 7543(e)(2)(B). Examples of each of these options are described below:

Vehicle Use Restrictions. EPA should encourage states to explore regulatory requirements and transportation control measures that would incentivize the use of advanced zero-emissions technologies and preclude the use of outdated, highly polluting vehicles and equipment.²³ Zero-emission technologies are commercially available for certain types of port cargo handling equipment and airport ground support equipment. State and local agencies can adopt restrictions on times when dirtier equipment can be used to encourage the use of these cleaner technologies.²⁴ Regulators could also require the use of advanced technologies on high-traffic goods movement corridors. In California, local community groups have suggested that the proposed expansion of Interstate 710 offers an opportunity to create a zero-emission corridor by building exclusive truck lanes connected to wayside power that would be accessible to trucks equipped with catenary systems.²⁵ Similar projects should be considered for other high-traffic corridors, particularly in the regions most impacted by freight emissions. Several cities in Europe have adopted incentives such as providing easier routes to city centers, subsidies, and differentiation of city access charges to promote use of cleaner vehicles.²⁶ These strategies could be extended, for example, to ban conventional diesel and gasoline combustion trucks from city centers to encourage the use of zero-emitting urban vocational trucks.²⁷

Local Indirect Source Rules. Unlike the other measures described here, EPA cannot require state and local agencies to adopt indirect source review (ISR) rules to satisfy

²³ California has adopted in-use regulations for heavy-duty trucks and buses. *See* <http://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm>.

²⁴ Another example of such use restrictions includes California's idling restrictions. *See* <http://www.arb.ca.gov/msprog/truck-idling/truck-idling.htm>.

²⁵ Coalition for Environmental Health and Justice, *I-710 Expansion Comments*, p. 12. (Sept. 28, 2012). Available at: http://docs.nrdc.org/smartGrowth/files/sma_12100301a.pdf.

²⁶ Eelco den Boer, *et al.*, CE Delft, *Zero Emissions Trucks: An Overview of State-of-the-Art Technologies and Their Potential*, at p. 103 (July 2013). Available at:

http://www.theicct.org/sites/default/files/publications/CE_Delft_4841_Zero_emissions_trucks_Def.pdf.

²⁷ *Id.* (noting that highly polluting trucks are already banned in many EU cities).

RACM. 42 U.S.C. § 7410(a)(5)(A)(i). Nonetheless, providing guidance and model federal rules applicable to federally assisted sources would facilitate the broader use of this powerful regulatory tool. Indirect source review rules can be used to ensure that facilities are built to operate efficiently, are equipped with the infrastructure necessary to support advanced zero-emissions technologies, and will restrict the use and attraction of dirty equipment. Areas can set overall emission targets for these facilities to meet, or include detailed specifications for how these facilities should be built or modified to ensure emissions are reduced. *See Nat'l Ass'n of Home Builders v. San Joaquin Valley Unified Air Pollution Control Dist.*, 627 F.3d 730 (9th Cir. 2010), *cert denied* 132 S.Ct. 369 (2011) (upholding San Joaquin Valley air district's indirect source review rule). For example, to encourage the development and deployment of zero-emission urban delivery trucks, a state's ISR rule could require that new distribution warehouses be equipped with electric charging stations. ISR rules for marine ports could set emission standards for new or modified terminals that would require efficiency improvements, the deployment of zero-emission technologies for cargo handling equipment, or the installation of shoreside power infrastructure.

Fleet Rules. EPA should also encourage state and local governments to adopt “fleet rules.” As the Agency is aware, fleet rules require governments to purchase or lease cleaner, less polluting vehicles for use in government fleets—e.g., city owned and operated bus fleets and passenger vehicles. Such rules yield emissions benefits, advance the use of cleaner technologies,²⁸ and create a market for such technologies. State and local governments have legal authority to adopt such rules as proprietary agencies. *Engine Mfrs. Ass'n v. South Coast Air Quality Management Dist.*, 498 F.3d 1031, 1045-49 (2007) (upholding fleet rules against preemption challenge under the Clean Air Act; rules constituted proprietary action versus regulatory action and fell within the market participant doctrine).

A number of local jurisdictions have adopted fleet rules that require, for example, all or a percentage of state and local agency fleets to be hybrid, electric or fuel-efficient vehicles, or that newly acquired vehicles be capable of using alternative fuels or have a minimum miles-per-gallon rating. *See* <http://www.afdc.energy.gov/laws/state> (U.S. Department of Energy, Alternative Fuels Data Center website) (chronicling state laws and incentives related to alternative fuels and advanced vehicles, including fleet rules). Accordingly, there are models in place that can be replicated.

California Standards. Under the Clean Air Act, states with nonattainment areas can require that mobile sources meet the same standards applicable in California. 42 U.S.C. §§ 7507 and 7543(e)(2)(B). California will need to more aggressively address freight sources in order to meet the national standards for ozone. *See* Cal. Air Res. Board, “Sustainable Freight: Pathways to Zero and Near-Zero Emissions” at p. 1 (April 2015) (“To achieve its healthy air quality, climate, and sustainability goals, California must take effective, well-coordinated actions to transition to a zero

²⁸ Advances in technologies in the non-freight sector (e.g., public buses and light duty trucks) can promote technological advances in the freight industry. Accordingly, we strongly support fleet rules that may indirectly advance electric and hybrid vehicles in the freight and non-freight sector.

emission transportation system for both passengers and freight”).²⁹ Widespread adoption of these California standards will advance these technologies and lower costs by improving economies of scale. As part of EPA’s RACM guidance, EPA should encourage states where freight sources are important contributors to violations of the national standards to adopt mobile source measures that California, and EPA (through its preemption waiver approval), have deemed feasible.

- Develop Incentive Funding Strategies to Target Freight Sources. While EPA has granted subsidies under the Diesel Emissions Reduction Act to reduce freight emissions,³⁰ EPA must develop a more targeted strategy for awarding these funds. Funds for demonstration projects should target zero-emission technologies, including hybrid technologies capable of achieving zero-emissions miles. Technologies that rely on combustion of fossil fuels should not benefit from these funds because they are already capable of achieving much lower standards and will not achieve the transformational change that is required at our freight facilities. Furthermore, funding should be targeted to applicants that meet strict criteria, including, for example, ports with facility-specific emissions inventories that meet meaningful health risk and emission reduction goals.

To the extent funding is meant to accelerate the deployment of technologies that have already been demonstrated, these funding programs should be coupled with regulatory requirements to incentivize early compliance. This combination of regulatory requirements with incentives for early compliance will help the commercialization of technology by providing clear market signals to manufacturers. Without the regulatory component, funding will be inadequate to spur the investment required to take technologies beyond the demonstration phase.

This list is not intended to be a menu of options for EPA action. EPA must pursue all of these actions to finally address the growing problem of freight pollution. This list is also intended to focus on actions that will result in measurable improvements in air quality and health risk. While we support additional studies, partnerships and processes, these efforts must not be taken in lieu of swift action that will yield direct, measurable benefits.

²⁹ Available at: http://www.arb.ca.gov/gmp/sfti/Sustainable_Freight_Draft_4-3-2015.pdf.

³⁰ See <http://www2.epa.gov/ports-initiative>.

Moving Forward Network Members

1. Air Alliance Houston
2. Bay Area Healthy 880 Communities-SL
3. California Cleaner Freight Coalition
4. Charleston Community Research to Action Board (CCRAB)
5. Center for Community Action and Environmental Justice
6. Central California Environmental Justice Network
7. Central Valley Air Quality Coalition
8. Citizens for a Sustainable Future, Inc.
9. Clean Air Council
10. Clean Water Action, Clean Water Fund
11. Coalition for Healthy Ports (NYNJ)
12. Coalition for a Safe Environment
13. Coalition for Clean Air
14. Comite Civico Del Valle, Inc.
15. Diesel Health Project, Inc.
16. Earthjustice
17. East Yard Communities for Environmental Justice
18. End Oil, Inc.
19. Environmental Health Coalition
20. Environmental Integrity Project
21. Global Community Monitor
22. Georgia Research Environmental Economic Network (GREEN) Inc.
23. Harambee House, Inc.
24. Ironbound Community Corporation
25. Long Beach Alliance for Children with Asthma
26. Maryland Institute for Applied Environmental Health, School of Public Health
27. National Nurses United
28. Natural Resources Defense Council (NRDC)
29. New Jersey Environmental Justice Alliance
30. Puget Sound Sage
31. Regional Asthma Management and Prevention (RAMP)
32. Respiratory Health Association
33. Rutgers Robert Wood Johnson Medical School
34. Rutgers University School of Management & Labor
35. Southwest Detroit Community Benefits Coalition/Southwest Detroit Environmental Vision
36. Steps Coalition
37. Sunflower Alliance
38. Texas Environmental Justice Advocacy Services (TEJAS)
39. The Center for the Urban Environment, Thomas Edison College
40. THE NEW SCHOOL
41. Union of Concerned Scientists
42. University of Southern California
43. University of Texas Medical Branch / Sealy Center for Environmental Health and Medicine
44. West Oakland Environmental Indicators Project

Name: Sharon McCormick

Organization: West Ambler Environmental Injustice Committee

City, State: Ambler, PA

My name is Sharon McCormick. I am a councilwoman In Ambler Pennsylvania. Ambler is home to the largest asbestos waste disposal sites in the United States, We have over 3 million cubic yards of industrial waste that is documented and known and it spans over 78 acres. The dumps sites are situated within the flood plain of the Wissahickon creek and the banks of the creek in this location are the dumps sites. We suspect that there is much more contamination here that has not been investigated by either our state or federal environmental agencies.

Ambler, Upper Dublin and Whitpain townships share the burden of 2 Superfund sites within their borders. Whitpain and Upper Dublin townships are predominantly wealthy townships within Montgomery county PA. Whitpain Township is among one of the wealthiest townships within Pennsylvania as a whole. Ambler is a more median income neighborhood: a culturally diverse, small borough with a population of 6400 residents. Most of the pollution here is associated with Ambler and not the neighboring wealthier neighborhoods.

Within the borders of the more affluent Whitpain township, lies a small community named West Ambler. And within this small community, an enormous asbestos factory and a large asbestos dump operated for more than 100 years. The people here live between the factory and the dump which was once set up for the workers at the factory. In 1963, 2 blocks of the worker's home were demolished due to dysentery and unsafe living conditions. The asbestos pile behind these homes was leveled out to become the Wissahickon/Whitpain Park and the remaining residents were allowed to enjoy this park until 1984.

In 1984 the USEPA had begun a removal action on the nearby Ambler Asbestos piles. These piles are also from the same manufacturer, thus a high level of concern within both the Amber and West Ambler communities was strong. A resident complained of exposed asbestos on the park and the park was closed due to recommendations by the CDC for potential health hazards. The piles in the West Ambler community then sat unremediated until 2009 when a group of citizens lobbied numerous complaints of visible uncovered asbestos waste on the piles and in the adjacent creek. These complaints eventually lead the BoRit superfund site today. Thankfully.

The BoRit asbestos site has been undergoing an EPA removal action since 2009. A 2 foot dirt cap has been placed, the surface impoundment was drained and dirt capped and now called a waterfowl preserve, and the asbestos waste making up the bank of the Wissahickon creek has been secured with geo-cells, rocks and dirt. This remedy has failed already with the actions of Hurricane Irene and the rains of this past winter, and the agency has not even issued the ROD yet.

The West Ambler community and the BoRit asbestos superfund site is a flood prone area and has experienced at least 4 major flooding events in the last 10 years. Potentially contaminated floodwaters have been documented in nearby residents causing damage to foundations, furnaces and outside structures. Yet the USEPA has not once tested these residences for contaminants from these known dump sites after these flooding events. These industrial dump sites are documented by the PADEP and

the EPA to contain heavy levels of arsenic, lead, TCE, PCE, PCB, Mercury, Cadmium, Vanadium, PAH's, Phthalates, Dioxin and numerous organic and inorganic, volatile and semi volatile substances all potentially releasing in the flood waters and trapping inside the basements of these folks homes. Yet the USEPA is well aware of the situation and refuses to test the homes. South Ambler, also has experienced a similar situation over the last decade and the agency has yet to test these homes either.

A few years ago, a citizens group established a community vegetable garden on an empty lot in West Ambler, within a few feet of the BoRit Superfund .The garden had to be demolished because of the discovery of dioxin on the BoRit and the potential for contamination. Yet the people's homes and yards have not been tested.

The old asbestos factory facilities are situated among the residences in this small community. The factory building are still standing and currently being reused for other commercial businesses, yet none of them have ever been tested for contamination or remediated. These were known asbestos manufacturing facilities and the USEPA is well aware of it.

Currently there is a manufacturing facility called Gessner that makes plastics. This facility has a direct water communication with the BoRit site. The USEPA found that when the factory is operating, the water level at the monitoring well on the BoRit site significantly lowers. Thus potentially contaminated water from the BoRit site is used at the Gessner factory and then discharged directly into the Rose Valley creek which empties a few yards downstream into the Wissahickon. The discharge water is only tested periodically for PH and temperature. The USEPA is well aware of this situation since they discovered it and no further testing has occurred. Recreation around and in the Wissahickon creek at the BoRit location is unbelievably not restricted.

The ground water and surface water at both the BoRit and the Ambler Asbestos Piles Superfund sites has been very well documented by the USEPA to contain significant contamination, not only asbestos, and at high levels. The EPA documents describe the ground water pathway to be not fully known, nor has the agency fully investigated to fill these data gaps to understand the full nature of ground water and surface water contamination, especially how it relates to potential drinking water contamination. The drinking water system is owned by the borough of Ambler and consists of a series of wells. The water is pumped from the wells to a nearby holding tank, where the water sits for 24 hours to enable sedimentation. Then chlorine is added and the water is allowed to flow to residences by gravity. The potable water in this community is not filtrated. The nearest operating tank is less than a quarter mile from the BoRit site. Also, there is historical documentation in old newspapers that suggest that that the West Ambler water pipes are connected to the old asbestos factory in Ambler. I personal shared this information with the USEPA, only to have it fall on deaf ears. Nothing was done.

Recently, I learned that the USEPA will allow the children of West Ambler to use the asbestos dump site as a park once again. The fences and warning signs will be removed despite the contamination on the park receiving only a 2 foot dirt cap remedy. The last air tests for asbestos conducted in 2011 at this location yielded high results for asbestos when the agency conducted activity based sampling, and no future air sampling events are planned for by the agency. So the West Ambler children will be encouraged to play on an asbestos waste disposal site without warning signs and knowledge of potential risks and no doubt without future testing events. This will be the first time in US history that a known

and very large asbestos waste disposal site becomes a recreational facility without removal of the asbestos contamination. And this is all happening in a lower income community nestled within one of the wealthiest townships in Pennsylvania. This is not only a gross environmental injustice, this is an environmental crime.

DRAFT

Name: Diane Morgan

Organization: BoRit Asbestos Superfund CAG

City, State: Ambler PA

Brief Description of Concern: BoRit Superfund and proposed construction Bast (5 acres) & Frumin (5 acres) parcels. The former Keasby-Mattison Asbestos factory dumpsite sits at the end of the railroad tread in the center of Ambler and extends into Upper Dublin and Whitpain townships with more than 100 acres. Twenty four acres constitute the Ambler Piles, a former Superfund site. Thirty four acres constitute the BoRit Asbestos Superfund site.

BoRit Superfund Site

Remediation failure before completion of the ROD – partial embankment & berm failure, reservoir overflow. Asbestos, PCB's, PCE's, lead, arsenic, and other chemicals may be leaching into the Wissahickon Creek and polluting the Philadelphia drinking water. Water has never been tested.

Proposed removal of outer fencing around property before the ROD is completed allowing public access with acknowledged remediation failures. CAG not notified of remediation failures, CAG member issued report to the EPA. Last air monitoring more than two years ago.

Gessner Industries, a private industry, has a permit to draw water from the creek for manufacturing of melamac products. The water is only tested for PH.

Boundary for the BoRit site has been determined by EPA to be at the pavement on Railroad Ave even though the site extends across the street to Main St. Buildings remain from the old Keasby-Mattison asbestos factory dumpsite as does more than ten acres of private property across the street where the owner has a back hoe in the middle of the property. None of those properties have been tested for asbestos and other harmful chemicals. The EPA has known of and been active on this site since the 1970's.

Bast Property – The Ambler Piles immediately adjacent to the Bast property and part of K&A have serious depressions/sink holes measuring 6' by 60'. The Bast property was approved for construction of 120 apartment units and an in-ground pool. The site was part of K&A and has the remains of the factory buildings. The air is not and has not been tested or monitored. The Ambler Piles are failing. The risk of placing large equipment on the Bast property poses a risk to the integrity of the Ambler Piles and the risk of exposure to the community.

What do you want NEJAC to advise EPA to do?

Insist the Army Corp of Engineers be summoned to determine why the remedy they suggested is failing on BoRit. Do not remove any fencing and allow the public access on the property until remediation and safety concerns are addressed and the ROD issued and approved with environmental controls in place. Demand signs are posted to inform the public that this is a remediated asbestos waste disposal superfund site. Test the water in the reservoir and the creek for dangerous levels of chemicals and reassess the permit given to Gessner Industries as necessary. Access the Philadelphia drinking water and the Ambler drinking water. Bring the Army Corp of Engineers back to the Ambler Piles where the

EPA has acknowledged that asbestos is exposed and sink holes have developed. Expand the scope of the EPA investigation to all of the properties that made up the Keasby-Mattison Asbestos factory which was more than 70 acres. Test the soil for toxic chemicals and address the risk. Test and monitor the air on a regular basis to ascertain risk to the public. Do not allow any commercial construction until all concerns are addressed and then reassess the situation. Test and monitor the air on a regular basis to ascertain risk to the public. Do not allow any commercial construction until all concerns are addressed and then reassess the situation.

DRAFT

Name: Michelle Roberts

Organization: EJHA

City and State: Wilmington, Delaware

March 14, 2016

National Environmental Justice Advisory Council
c/o Karen L. Martin, EPA

Re: Public Comment to NEJAC for Public Meeting March 16-17, 2016

Dear NEJAC members:

This letter is on behalf of many organizations working within farmworker communities and aims to address a need for a higher degree of *cultural competency* among state enforcement officials that work directly with farmworkers and with the EPA in implementing the Agricultural Worker Protection Standard. Addressing this need will facilitate the Environmental Protection Agency's ability to ensure that the revised Worker Protection Standards (WPS) are implemented in a meaningful and effective manner that will better protect the health and safety of farmworkers and of their communities.

We commend the Agency on taking the initiative to address environmental justice issues within frontline communities across the nation through the establishment of, and communication with, the National Environmental Justice Advisory Council (NEJAC). The EPA needs to take what it is hearing from the communities that are most impacted by toxics, to increase inclusivity when developing the Agency's future policy. It is imperative that the Agency continues to invite people that are living and/or working in places that are disproportionately affected by toxics to use the experience of the reality in the EJ communities to propose concrete recommendations to EPA, so that the Agency may hear firsthand how the policies they develop are affecting people on the ground.

However, while we understand, encourage, and appreciate the Agency's efforts to increase cultural competency through trainings with state enforcement officials, it has been brought to many of the farmworker organizations' attention that many state enforcement officials do not have an adequate understanding of the specific culture within farmworker communities and the power dynamics between farmworkers and enforcement officials. Through meetings with these officials, it has become clear that many are not aware of, or sensitive to, the cultural biases that they bring to a situation when interacting with farmworkers. This lack of awareness amongst enforcement officials can cause farmworkers to feel threatened and can lead to a decreased ability to investigate potential workplace violations. For example, when meeting with the North Carolina Department of Agriculture, Pesticide Division, inspectors were astonished that workers would not be willing to meet with them after inspectors addressed them with "Hola, buenas dias". This shows a disconnect in how an inspector is perceived by the farmworker community and how the inspector thinks they are perceived, unaware of their own bias that they bring to the situation. Our organizations would like to make the following recommendations on how the Agency can address these issues and give the state

enforcement officials greater awareness of how best to handle investigation situations.

We ask the NEJAC to bring these recommendations before EPA on behalf of our organizations and on behalf of the farmworker communities we work with and represent.

- **Incorporate racial equity work into cultural competency trainings with state enforcement officials that addresses issues such as, institutionalized racism, privilege, socioeconomic class, and power dynamics**
- **Incorporate an environmental justice framework into cultural competency trainings among state enforcement officials to frame a conversation around disproportionately impacted communities**
- **Encourage cultural and racial diversity among state enforcement agencies in hiring their staff and promoting leadership**
- **Incorporate into cultural competency trainings an understanding of the role immigration status, language barriers, and cultural norms of indigenous communities play in communicating with farmworkers**

Incorporate racial equity work into cultural competency trainings with state enforcement officials that addresses issues such as, institutionalized racism, privilege, socioeconomic class, and power dynamics.

Understanding how race, class, and privilege factor into power dynamics is imperative to state enforcement officials interacting with farmworker communities in an effective and meaningful way. Furthermore, our organizations have observed socioeconomic class playing a big role in investigations as Hispanic inspectors act condescending and negatively to farmworkers of the same race and/or ethnicity. All people bring certain biases to situations that can cause there to be a disconnection in communication between two interacting parties that can thwart the investigation process. The EPA has invested more than a decade of work into developing the newly revised WPS. For that effort to be most effectively realized, understanding these dynamics is a critical component. Incorporating this sort of information into cultural competency trainings can increase enforcement opportunities as state enforcement officials and the farmworker community work to build a relationship of greater trust and collaboration.

Incorporate an environmental justice framework into cultural competency trainings among state enforcement officials to frame a conversation around disproportionately impacted communities.

The process of environmental justice involves including the groups that are most affected by environmental degradation and pollution in the conversation about how to create policy that positively affects their community without shifting the burden to another community. Framing cultural competency trainings around environmental justice issues can help to inform enforcement officials that there are certain groups that have been, and will continue to be, disproportionately affected by toxics, which in the case of farmworkers, is usually pesticides. Power dynamics within the work environment, in which workers as ethnic minorities are afforded less health and safety information and protection, is an environmental justice issue within the workplace. Including this awareness in training can increase enforcement officials' awareness of systemic problems facing farmworkers and other environmental justice communities.

Encourage cultural and racial diversity among state enforcement agencies in their staff and leadership.

We have noticed that a disproportionate number of state enforcement officials are non-Spanish speaking, White, males. For example, the state of North Carolina's Structural Pest Control and Pesticides Division within the Department of Agriculture and Consumer Services is made up of over 80% White males and have only one bilingual person on staff for an estimated 100,000 farmworkers. This is an extremely disproportionate representation of not only the farmworker community, but also the state as a whole. With only one bilingual employee, it is difficult to investigate potential violations in a language that is accessible and comfortable to farmworkers. While we acknowledge that the Agency cannot make certain stipulations on who state enforcement agencies can hire, we think that there is an opportunity for the Agency to encourage state officials to make an intentional effort to increase diversity among their staff.

Incorporate into cultural competency trainings an understanding of the role immigration status, language barriers, and cultural norms of indigenous communities play in communicating with farm workers

Immigration status of farmworkers plays a significant role in farmworkers' openness and ability to communicate with compliance and enforcement officials of state agencies enforcing worker protection regulation. Sensitivity to the concerns, apprehensions, fears, and reluctance of farmworkers to cooperate with government officials, who farmworkers may associate with immigration enforcement agents, is important information to impart to inspectors investigating workplace compliance issues. In addition, special inclusion of the specific considerations for dealing with even more marginalized and less acclimated farmworkers from indigenous communities in their countries is equally important, as there is an ever increasing number of farmworkers entering the workforce from these communities in Central America.

We submit these recommendations and encourage their incorporation into the cultural competency trainings from the Agency and that we can continue to work together toward a more inclusive policy development process. Thank you for the opportunity to present these recommendations to the NEJAC, and we look forward to working with the Agency to a meaningful and effective implementation of the WPS and other standards set forth by the Agency.

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Please follow the link below to read Africatown's plan for the future as expressed by the residents of Africatown during a six month planning period sponsored by the city of Mobile, AL.

<http://www.cityofmobile.org/>

DRAFT