

MEETING SUMMARY

of the

EXECUTIVE COUNCIL

of the

**NATIONAL ENVIRONMENTAL JUSTICE ADVISORY
COUNCIL**

July 21 through 23, 2009

Arlington, Virginia

Victoria Robinson

Victoria Robinson
Designated Federal Officer

Richard Moore

Richard Moore
Chair

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. To date, NEJAC has held 26 meetings in the following locations:

- Washington, DC, May 20, 1994
- Albuquerque, New Mexico, August 3 through 5, 1994
- Herndon, Virginia, October 25 through 27, 1994
- Atlanta, Georgia, January 17 and 18, 1995
- Arlington, Virginia, July 25 and 26, 1995
- Washington, DC, December 12 through 14, 1995
- Detroit, Michigan, May 29 through 31, 1996
- Baltimore, Maryland, December 10 through 12, 1996
- Wabeno, Wisconsin, May 13 through 15, 1997
- Durham, North Carolina, December 8 through 10, 1997
- Arlington, Virginia, February 23 through 24, 1998 (Special Business Meeting)
- Oakland, California, May 31 through June 2, 1998
- Baton Rouge, Louisiana, December 7 through 10, 1998
- Arlington, Virginia, November 30 through December 2, 1999
- Atlanta, Georgia, May 23 through 26, 2000
- Arlington, Virginia, December 11 through 14, 2000
- Washington, DC, August 8 through 10, 2001 (Special Business Meeting)
- Seattle, Washington, December 3 through 6, 2001
- Baltimore, Maryland, December 9 through 12, 2002
- New Orleans, Louisiana, April 13 through 16, 2004
- Washington, DC, January 5 through 6, 2006 (Special Business Meeting)
- Washington, DC, June 20 through 22, 2006
- Baltimore, Maryland, September 18 through 20, 2007
- Washington, DC, June 10 through 12, 2008
- Atlanta, Georgia, October 21 through 23, 2008
- **Arlington, Virginia, July 21 through 23, 2009**

The NEJAC also has held other meetings, including the following:

- Public Dialogues on Urban Revitalization and Brownfields: Envisioning Healthy and Sustainable Communities, held in Boston, Massachusetts; Philadelphia, Pennsylvania; Detroit, Michigan; Oakland, California; and Atlanta, Georgia; summer 1995
- Relocation Roundtable held in Pensacola, Florida, May 2 through 4, 1996
- Environmental Justice Enforcement and Compliance Assurance Roundtable, held in San Antonio, Texas; October 17 through 19, 1996
- Environmental Justice Enforcement Roundtable, held in Durham, North Carolina; December 11 through 13, 1997
- International Roundtable on Environmental Justice on the U.S./Mexico Border, held in San Diego, California; August 19 through 21, 1999

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

- Members must be selected and appointed by EPA.
- Members must attend and participate fully in meetings of the NEJAC.
- Meetings must be open to the public, except as specified by the EPA Administrator.
- All meetings must be announced in the Federal Register.
- Public participation must be allowed at all public meetings.

- The public must be provided access to materials distributed during the meeting.
- Meeting minutes must be kept and made available to the public.
- A DFO must be present at all meetings.
- The NEJAC must provide independent judgment that is not influenced by special interest groups.

The EPA Office of Environmental Justice (OEJ) maintains transcripts and summary reports on the meetings of the NEJAC, which are available on the NEJAC Web site at www.epa.gov/compliance/environmentaljustice/nejac. Copies of materials distributed during the meetings are also available to the public upon request. Comments or questions can be directed to OEJ at ***environmental-justice-epa@epa.gov***.

**National Environmental Justice Advisory Council Public Meeting
Arlington, Virginia
July 21 through 23, 2009**

Meeting Summary of the Executive Council

The Executive Council (Council) of the National Environmental Justice Advisory Council (NEJAC) convened for a three-day meeting from July 21 through 23, 2009, in Arlington, Virginia. The event marked the 15-year anniversary and 26th meeting of the NEJAC. This summary presents highlights of Council deliberations, including community concerns heard during the Public Comment period on July 21, 2009.

The NEJAC is a Federal advisory committee that was established by charter on September 30, 1993, to provide independent advice, consultation and recommendations to the Administrator of the U.S. Environmental Protection Agency (EPA or the Agency) on matters related to environmental justice. The Council is currently comprised of 21 members representing academia, business and industry, community-based organizations, non-governmental and environmental groups, state and local governments, tribal governments and indigenous organizations. One EPA staff member serves as the Designated Federal Official (DFO) for NEJAC. Exhibit 1 lists the members of the Executive Council who were in attendance, as well as those who were unable to attend the meeting.

This summary contains two chapters. Chapter 1, Executive Council Discussions, summarizes the deliberations of the Council and includes the following sections:

1. Welcome and Opening Remarks
2. Dialogue with New EPA Leadership
3. Tribute to Luke Cole
4. Overview of EPA Office of Environmental Justice
5. NEJAC 15-year Retrospective
6. Discussion on Enhancing NEJAC Engagement with Impacted Communities
7. Dialogue with EPA Environmental Justice Executive Steering Committee
8. NEJAC Work Group Reports
9. Variances for Small Drinking Water Systems
10. Definition of Solid Waste Rule
11. Urban Waters Initiative
12. Emerging Issues
13. Council Business
14. Closing Statements

Chapter 2, Public Comment Period Summary, provides a synopsis of the concerns voiced by members of the public during the comment period.

Exhibit 1

Executive Council Members

Members in Attendance

Mr. John Ridgway, Acting Co-Chair
Ms. Elizabeth Yeampierre, Acting Co-Chair
Ms. Victoria Robinson, DFO
Mr. Don Aragon
Mr. Chuck Barlow
Ms. Sue Briggum
Mr. Peter Captain, Sr.
Ms. Jolene Catron
Ms. Wynecta Fisher
Mr. William Harper
Ms. Jodena Henneke
Mr. Christian Holmes
Mr. Hilton Kelley
Mr. J. Langdon Marsh
Mr. Shankar Prasad
Mr. John Rosenthal
Ms. Patricia Salkin
Mr. Omega Wilson

Members Not in Attendance

Mr. Richard Moore, Chair
Ms. M. Kathryn Brown
Mr. Gregory Melanson
Mr. Paul Mohai

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6 EPA Environmental Justice Executive Steering Committee

7 NEJAC Goods Movement Work Group Members

8 NEJAC Nationally Consistent Environmental Justice Screening Approaches Work Group Members

9 Environmental Justice Strategic Enforcement Assessment Tool

10 NEJAC School Air Toxics Monitoring Work Group Members

11 Smart Growth Network

12 Concentrated Animal Feeding Operations

13 1984 EPA Indian Policy

14 Environmental Justice Leadership Forum on Climate Change

ACRONYMS AND ABBREVIATIONS

The Agency	U.S. Environmental Protection Agency
CARE	Community Action for a Renewed Environment
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980
The Council	Executive Council of the National Environmental Justice Advisory Council
DFO	Designated Federal Official
EJSEAT	Environmental Justice Strategic Enforcement Assessment Tool
EPA	U.S. Environmental Protection Agency
FACA	Federal Advisory Committee Act of 1972
NEJAC	National Environmental Justice Advisory Council
NEPA	National Environmental Policy Act of 1970
OECA	Office of Enforcement and Compliance Assurance
OEJ	Office of Environmental Justice
OPPTS	Office of Prevention, Pesticides and Toxic Substances
OSWER	Office of Solid Waste and Emergency Response
RCRA	Resource Conservation and Recovery Act of 1976

Chapter 1

Executive Council Discussions

1.0 Welcome and Opening Remarks

The meeting began with welcoming remarks by Ms. Victoria Robinson, NEJAC Program Manager and Designated Federal Official (DFO), EPA Office of Environmental Justice (OEJ); Mr. Richard Moore, NEJAC chair and Executive Director of the Southwest Network for Environmental and Economic Justice; Ms. Elizabeth Yeampierre, Executive Director of UPROSE, Inc.; Mr. John Ridgway, Manager of the Information Management and Communications Section at Washington State Department of Ecology; and Mr. Charles Lee, Director, EPA OEJ.

In his opening remarks (provided via teleconference), Mr. Moore welcomed his fellow Council members and commended them for their hard work. He addressed the audience by acknowledging representatives from the various stakeholder groups. He expressed optimism over renewed opportunities to achieve environmental justice under the leadership of President Barack Obama and EPA Administrator Lisa Jackson. He recognized the significance of the first People of Color Summit, held in 1991, during which representatives from around world redefined the environmental justice movement to include workplaces, homes, where people play, and places of worship as crucial elements. He added that health conditions in workplaces and surrounding areas, such as schools and places of worship, cannot be separated from economic and environmental injustices. He stressed the importance of soliciting the input of community members at all levels of decision-making within EPA. He asked the Council to “remember those who afforded us the opportunity to sit at this 15th year NEJAC meeting,” and he challenged the Council not to “shelve” the recommendations and documents generated by their predecessors. Mr. Moore urged EPA to learn from its past mistakes. He shared advice from his mother: “My son, if you make a mistake one time, it was an honest mistake. My son, if you make the same mistake...a second time, then...you never learned from the first time. And my son ... if you do it a third time, then I question [whether] you learned anything from the first time...or the second time...” He then introduced Ms. Yeampierre and Mr. Ridgway, who served as acting co-chairs of the NEJAC in his absence.

Ms. Yeampierre thanked Mr. Moore for his leadership and sacrifice in building community power. She referred to the Council members as “sons and daughters of the civil rights movement.” She cautioned against leaders who claimed to speak on behalf of communities without being committed to building community power or being accountable to the people. She stressed the importance of leadership emerging from affected communities. Ms. Yeampierre echoed Mr. Moore’s optimism for progress under the leadership of EPA Administrator Jackson and President Barack Obama. She referred to a recent meeting of the White House Council on Environmental Quality, during which environmental justice leaders had the opportunity meet with Ms. Nancy Sutley, Chair of the Council on Environmental Quality (CEQ); Mr. Van Jones, CEQ Member and Special Advisor for Green Jobs, Enterprise and Innovation; and Ms. Hilda Solis, Secretary of Labor, to discuss issues affecting disadvantaged communities. Ms. Yeampierre stressed that NEJAC has a responsibility to “level the playing field,” starting with the most affected communities.

In his welcoming remarks, Mr. Lee indicated there was a “sense of great enthusiasm and renewed sense of purpose” in the room. He said that Administrator Jackson has a vision to take environmental justice to “an entirely new level at EPA.” He noted that, as part of the Agency’s efforts to reinvigorate discussions about environmental issues, senior EPA policy makers on the Environmental Justice Executive Steering Committee; and the National Tribal Operations Committee, comprised of tribal leaders and EPA’s Senior Leadership Team, were also meeting during the same week as the NEJAC public meeting in Washington, D.C.

2.0 Dialogue with New EPA Leadership

Members of the NEJAC engaged in dialogue with Ms. Lisa Jackson, EPA Administrator; Mr. Mathy Stanislaus, former NEJAC member and now Assistant Administrator of EPA's Office of Solid Waste and Emergency Response (OSWER); Mr. Steve Owens, Assistant Administrator of EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS); and Ms. Cynthia Giles, Assistant Administrator of EPA's Office of Enforcement and Compliance Assurance (OECA).

2.1 Ms. Lisa Jackson, EPA Administrator

Ms. Jackson began her address to the Executive Council with the statement, "We have so much to do." She expressed her appreciation for the work of the NEJAC, noting the commitment of its members to continue "fight(ing) against the current" even when support for their efforts may have been limited in the past. She acknowledged the need to rebuild the partnership between EPA and the Council.

She noted that environmental justice is an issue close to her heart and recounted her own personal history of growing up in the Ninth Ward of New Orleans. She commented that, although Hurricanes Katrina and Rita and the sight of poor, distressed African-Americans brought environmental justice to the forefront of people's minds, the Gulf Coast region has a long history of environmental problems that predate the storms of 2005. Ms. Jackson noted that lead in soil, toxic chemicals in water, and dangerous particulates in air have posed problems in that region for generations.

Ms. Jackson cited an article in the Washington Post that said nearly 40 miles of wetlands along the coast of Louisiana are disappearing every year. She pointed out that the people hardest hit by such environmental degradation are the local tribes whose way of life is supported by the wetlands and, as a result, the young people in those communities are moving away. She further stated that the few jobs available in those areas are in the offshore oil and gas drilling arenas, and those communities are facing the potential need to relocate from areas that have been home for them for centuries.

She said that such disparities are unacceptable. She noted that, as EPA Administrator, a critical part of her mission is to make the Agency work for all Americans. She acknowledged, however, that she could not fully achieve that mission without the Council's help. She urged the Council to join EPA in efforts focusing on helping the poor and underserved. She stated that efforts to protect children's health would, in turn, protect the rest of the community. Similarly, by taking care of those adults who are poor and disproportionately affected, the rest of the population is protected.

Ms. Jackson further stated that evidence exists that schools may not be healthy environments. She committed EPA to share and interpret data for communities so that they can advocate for themselves. She reported that earlier in 2009, EPA funded \$800,000 in grants to fund environmental justice projects in 28 states.

As part of her effort to extend EPA's message to new communities, Ms. Jackson said she recently attended the 80th annual meeting of the League of United Latin American Citizens. She commented that it was "extraordinary to see Latinos united to find ways to advocate" on issues that affect them. She stated that she would be speaking with tribal groups the next day. She noted that when she meets with Regional offices, she specifically requests to meet with local groups. She acknowledged that her visits energize people and that her confirmation as EPA Administrator symbolically has "changed the face of environmentalism" in the United States.

Continuing her remarks, Ms. Jackson said environmentalism is about protecting people in the places where they live, work and raise families. She acknowledged the need for EPA to meet people in their communities, especially those who have been left out. She also pointed out that work to achieve environmental justice does not have to "dwell on the downsides." She stated that President Obama is trying to build a green economy that will provide opportunities for jobs in the places where both "green" and "jobs" are critical. She noted that environmental justice can also be a "force multiplier" for other

issues. She used healthcare as an example, where people who are more likely to become sick are more likely not to be covered by health insurance, which results in a “drag” on the economy.

Ms. Jackson reaffirmed her commitment to ensure that environmental justice concerns are considered in all EPA policies and programs. She noted the EPA partnership with the White House, and said she looked forward to working with President Obama; Ms. Nancy Sutley, Chair of the White House Council on Environmental Quality; Ms. Carol Browner, Assistant to the President for Energy and Climate Change; and the NEJAC. Ms. Jackson closed by acknowledging the activists and others on the “front line” who are EPA’s allies in the environmental justice movement.

In the brief discussion following Administrator Jackson’s remarks, Mr. Yeampierre noted that she could already feel change “on the ground.” Mr. Omega Wilson, President, West End Revitalization Association, acknowledged the continuing struggle of his constituents, who have been involved in their own fight for environmental justice since before OEJ was established. He noted that his community was still focused on the basic amenities for life more than green jobs, and that they were not in the “funding stream” like New York, Chicago and Oakland. Ms. Jackson committed EPA to bringing attention to the “other rural America” such as Mr. Wilson’s community and tribal lands, and to make sure that money is not only provided to big cities. She referred to EPA’s work with the Indian Health Services to use State Revolving Fund money on tribal lands. She also expressed optimism about transportation funding as another potential financial resource for rural communities.

2.2 Mr. Mathy Stanislaus, Assistant Administrator, EPA OSWER

In his address to the Council, Mr. Mathy Stanislaus, Assistant Administrator, EPA OSWER – and former member of the NEJAC’s Waste and Facility Siting Subcommittee and former Chair of the Waste Transfer Station Work Group – noted that he was the first Sri Lankan to serve in his post. He acknowledged the hard work of community leaders. He assured the Council that he would work in strong partnership with Ms. Cynthia Giles, Assistant Administrator of EPA OECA, and others at EPA to strengthen the consideration of environmental justice concerns in their programs. However, he also acknowledged EPA’s need for help from the NEJAC and other stakeholders to achieve the Agency’s goals. Mr. Stanislaus described government transparency as a hallmark of good government.

Mr. Stanislaus referred to Administrator Jackson’s memorandum to EPA employees on April 23, 2009, in which she made the following statement:

“In all its programs, EPA will provide for the fullest possible public participation in decision making. This requires not only that EPA remain open and accessible to those representing all points of view, but also that EPA offices responsible for decisions take affirmative steps to solicit the views of those who will be affected by these decisions. This includes communities of color, Native Americans, people disproportionately impacted by pollution, small businesses, cities and towns working to meet their environmental responsibilities, and others who have been historically underrepresented in EPA decision making. EPA will not accord privileged status to any special interest, nor will it accept any recommendation or proposal without careful, critical, and independent examination.”

Mr. Stanislaus expressed his commitment to Administrator Jackson’s charge. He requested that the NEJAC provide input on the Definition of Solid Waste Rule, on which stakeholders had submitted extensive public comments in June 2009. He acknowledged the concern that the Agency had not adequately addressed environmental justice concerns in the Definition of Solid Waste rulemaking, and he committed OSWER to conducting an environmental justice analysis of the rule. He stated that the effort would involve all interested stakeholders, particularly those who may be potentially impacted by the rulemaking; and the expertise of EPA and external experts. Mr. Stanislaus said that OSWER is developing an environmental justice analysis approach, and he expressed hope that the approach could be a model for the future. He asked for recommendations on ways that EPA could engage the NEJAC in development of the approach.

Mr. Stanislaus also asked that the NEJAC provide advice on the following specific issues:

1. EPA's 2009-2014 Strategic Plan, which the Agency is required by law to revisit every 3 years. He acknowledged that the Strategic Plan affects disadvantaged communities in many ways and welcomed recommendations from the Council.
2. School siting, for which EPA is developing voluntary guidelines for facilities to provide tools to local communities, as required by the Energy Independence and Security Act of 2007. In addition to ensuring safe sites for schools, the guidelines are intended to alleviate historic disparities among schools in different socioeconomic and ethnic communities, and to set forth mechanisms for community involvement whenever new schools are built or old ones renovated. Mr. Stanislaus requested NEJAC input on the guidelines.
3. Automobile sector bankruptcy issues, which involve cleanup and reuse related to properties abandoned by bankrupt automobile manufacturers, parts suppliers and dealers. Mr. Stanislaus noted that such properties are often located "in the heart of" disadvantaged communities and contribute to blight and environmental and public health problems. He asked for the NEJAC's advice on ways EPA can improve the capacity of local governments to clean up such properties and return them to economically productive use.
4. Cleanup of contaminated properties under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and Resource Conservation and Recovery Act of 1976 (RCRA). Mr. Stanislaus acknowledged that, in some cases, the view of "Superfund" as merely a technical and legal process has marginalized community involvement. (Superfund is a federal fund established under CERCLA that provides money to investigate and clean up the nation's worst hazardous waste sites. Sites undergoing investigation or cleanup using Superfund money are subject to federal community involvement guidelines.) He asked for the NEJAC's advice on how EPA can do a better job communicating information, engaging communities and involving them in decisions.

Mr. Stanislaus reported that, at the annual awards ceremony for EPA Regional Offices, he had presented the Agency's Environmental Justice Award to a team from EPA's Region 4 and the U.S. Army Corps of Engineers, for effectively relocating a community around a Superfund site in Pensacola, Florida. He described the community as comprised of several dozen low-income and minority families who had lived in a historic neighborhood for many generations. He noted that, despite the challenges of the situation, the team was able to "win the hearts" of the people by, for example, meeting with residents individually prior to relocation negotiations; attending monthly neighborhood association meetings; being sensitive to the special needs of the elderly, disabled and tenants of U.S. Department of Housing and Urban Development homes; building partnerships with City, County and State agencies and the local Chamber of Commerce; and organizing site tours. The relocated residents expressed their appreciation of the team's efforts by throwing a "Farewell and Thank You" barbecue for them. Mr. Stanislaus committed OSWER to providing similar kinds of service to every community that experiences cleanup in their neighborhood.

Mr. Stanislaus expressed regret for not being able to stay for the entire NEJAC meeting, citing his participation in two other community-based partnership meetings involving tribal groups and innovation leaders. However, he assured the Council of OSWER's continued access and transparency and encouraged members to direct questions to his OSWER colleagues Ms. Antoinette Powell-Dickson, Ms. Marsha Minter and Ms. Pat Carey, who would be present throughout the NEJAC meeting.

Following Mr. Stanislaus' remarks, Executive Council members asked questions and engaged in a discussion that included the following items:

- Ms. Wynecta Fisher, Director, Mayor's Office of Environmental Affairs, City of New Orleans, reported that a company was trying to construct the very first plasma gasification facility along a waterway and next to an environmental justice community in the New Orleans area. She stated that data on the plasma gasification process was limited, and that she would need to follow up with OSWER to better understand the potential effects on surrounding communities.
- Mr. Wilson asked about OSWER's plan to identify areas with historic contamination that pre-date EPA cleanup policies, especially where local governments and businesses are exploring opportunities to build housing. He described an effort to develop housing in the vicinity of an old contaminated facility in North Carolina and expressed concern about potential residual chemicals.

Mr. Stanislaus stated that he would ask Ms. Carey to follow up on this issue as part of developing the environmental justice analysis approach.

- Mr. Shankar Prasad, Executive Fellow, Coalition for Clean Air, recommended that OSWER consult with members of the Nationally Consistent Environmental Justice Screening Approaches Work Group, which is specifically reviewing and advising on the practice of environmental justice analyses conducted under EPA's OECA.
- Mr. Christian Holmes, Senior Vice President, Program Development, Global Environment and Technology Foundation, commented that EPA's communication with communities has generally focused on liquid and solid waste, when other issues such as air pollution and endocrine disruption are also concerns. He added that EPA should explore alternate ways to evaluate cancer clusters (for example, in relation to population age, diet, location of power plants and other factors).
- Mr. Hilton Kelley, Director, Community In-power and Development Association, Port Arthur, Texas, recommended that EPA develop ways to incorporate start-up and shut-down emissions into exposure calculations associated with facility emissions. He also requested that EPA follow-up on the issue of companies importing Federally banned toxic waste. As an example, he referred to companies in southeast Texas that have petitioned EPA Region 6 to allow the import of polychlorinated biphenyls (PCBs), which were banned from production by the U.S. Congress in 1976.
- Mr. Don Aragon, Executive Director, Wind River Environmental Quality Commission, Eastern Shoshone and Arapaho Tribes, expressed hope that OSWER would work on behalf of Native American tribes and reservations. He noted that environmental cleanups on tribal lands are not clearly addressed under RCRA, and tribes are often penalized for their lack of funding to address solid waste issues. He also stated that reservations are disproportionately targeted for the siting of facilities like incinerators and nuclear waste storage units; and tribal lands are often havens for dumping old automobiles, tires and waste oil.

In his parting words, Mr. Stanislaus acknowledged the challenge of "scaling up" lessons learned from communities to achieve "programmatic, rulemaking solutions."

2.3 Mr. Steve Owens, Assistant Administrator, EPA OPPTS

Mr. Steve Owens, Assistant Administrator, EPA OPPTS, noted that he was at the beginning of his second full week on the job and was still learning his way around EPA. He recalled that, as Director of the Arizona Department of Environmental Quality, he was proud when his agency and then Governor Janet Napolitano officially reaffirmed that Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," dated February 11, 1994, applied to the State of Arizona. (The full text of Executive Order 12898 is available at www.epa.gov/fedrgstr/eo/eo12898.htm.) As Director of Arizona Department of Environmental Quality, he had emphasized that environmental justice analyses had to be conducted in permit and site approvals to ensure that affected communities were considered.

Mr. Owens acknowledged that much of the work of OPPTS directly affects communities and that he and EPA Administrator Jackson had talked extensively about the importance of considering the impact of decisions and policies related to toxic substances and pesticides on communities. He expressed a desire to listen to NEJAC's recommendations in that regard.

2.4 Ms. Cynthia Giles, Assistant Administrator, OECA

Ms. Cynthia Giles, Assistant Administrator, OECA, began her remarks by summarizing her work experience prior to joining EPA. She pointed out that based on her past experiences, she brings to EPA a variety of different perspectives on matters pertaining to environmental justice. She asserted her commitment to the rule of law and ensuring that laws are applied and enforced equally everywhere. She stated that, by protecting communities that are disproportionately affected, everyone is protected. She

acknowledged that the effects of climate change, as well as the effects of emissions related to goods movement, fall disproportionately on low-income communities and communities of color (see Exhibit 2, Goods Movement).

Exhibit 2
Goods Movement
<p>“Goods Movement” refers to the transportation of for-sale products from the location of their manufacture or harvest to their final retail destination.</p> <p>Source: hydra.usc.edu/scehsc/web/Resources/What is Goods Movement/What is Goods Movement.html</p>

Ms. Giles reaffirmed Administrator Jackson's commitment to transparency, and noted that transparency not only meant providing information about EPA activities, but also providing resources to support community involvement. She reported that EPA recently made available on its Web site a large amount of data on State and Federal enforcement actions related to industry compliance. This information would allow communities to check on the performance of their government agencies. She considered “an informed citizenry...one of our best allies to pressure industry and the government.” She assured the Council that environmental justice was part of all OECA activities.

The follow-up discussion to Ms. Giles' remarks included several items:

- Ms. Yeampierre expressed concern that EPA's “cap-and-trade” program does not adequately address the issue of facility siting (see Exhibit 3, Cap-and-Trade). She noted that pollution offsets may not be localized and questioned the effectiveness of “cap-and-trade” in protecting affected communities. Ms. Giles stated that “cap-and-trade” was applicable only to the greenhouse programs and not other pollutants that were regulated under separate programs. She acknowledged, however, that greenhouse gas emissions (for example, carbon dioxide) are often co-located with other pollutants.
- Mr. Marsh urged EPA to examine various models for decision-making in the goods movement arena that can be applied to other environmental justice and general environmental issues. He recommended a “two pronged effort” where EPA would (1) build community capacity by providing communities with tools and resources (such as access to scientific data) for them to better understand the issues that are affecting them and be better equipped to participate in decision-making, and (2) play a role in convening communities, agencies, industry and other stakeholders to develop holistic solutions that go beyond the enforcement approach alone. Ms. Giles stated that she has witnessed the power of information to transform communities, and she restated her commitment to provide communities with the resources they need.

Exhibit 3
Cap-and-Trade
<p>Cap and trade is an environmental policy tool that sets mandatory “caps,” or ceilings, on the volume of emissions while providing sources flexibility in how they comply. Successful cap and trade programs reward innovation, efficiency, and early action and provide strict environmental accountability without inhibiting economic growth.</p> <p>Source: www.epa.gov/captrade/</p>

3.0 Tribute to Luke Cole

The Executive Council paid tribute to Mr. Luke Cole, former NEJAC member and Director of the Center on Race, Poverty and the Environment in San Francisco, California. Mr. Cole died in a car crash in Uganda in early June 2009. He served on the NEJAC from 1996 through 2000, and he chaired NEJAC's Enforcement Subcommittee from 1998 through 2000. A video presentation with quotes from Mr. Cole was shown as several Council members shared memories that exemplified his commitment to the environmental justice movement.

Ms. Briggum acknowledged that she and Mr. Cole would “mix it up” sometimes, due to their different perspectives on issues. However, she expressed her appreciation for the fact that, in the midst of his

fever, he was always open to discussions and would listen carefully. She noted his “wonderful sense of humor.” She said that she admires his legacy and would miss him.

Mr. Aragon stated that he and Mr. Cole shared similar views about environmental justice and the effects of injustices on people of color and Native American tribes. He recognized that Mr. Cole had written “excellent books,” and Mr. Cole even autographed one for him. Mr. Aragon said he was deeply moved that Mr. Cole had passed. He recalled traveling to Alaska with Mr. Cole and Mr. Danny Gogal, EPA OEJ, to observe the experience of the Alaskan people in February under wind chill conditions of -70 degrees Fahrenheit. Mr. Aragon stated that Mr. Cole “wanted to live it, not just hear about it.”

Ms. Henneke recalled one of first NEJAC meetings in the early 1990s, when she witnessed Mr. Cole and Mr. Moore as a “tag team.” She commented that she was fascinated by their interaction and had learned so much by just watching them. She said Mr. Cole’s “passion was extraordinary.”

Ms. Yeampierre shared that, during a recent gathering of environmental justice youth organizers convened by her organization, several youth cried and shared everything that Mr. Cole had done in their communities. She said she could feel the effect that he had made in their lives.

Mr. Prasad acknowledged that Mr. Cole’s passing was a great loss to the environmental justice movement. He described him as an “honest man” and an “excellent lawyer.” He noted that Mr. Cole had made a big difference in many communities in California’s Central Valley, and that he was exploring questions about whether there was a “legal hook” to the accountability of climate justice.

Mr. Marsh described Mr. Cole as a “very strong, forceful and energetic person.” He commented that Mr. Cole was an “unusual person” as a “white guy [who was] passionate about what had been happening to people of color.” Mr. Marsh considered him a leader who was energized by what he saw as injustice.

Mr. Lee recalled that he first met Mr. Cole in the late 1980s as a young attorney who said that he had read “Toxic Waste and Race,” which Mr. Lee had authored on behalf of the United Church of Christ in 1987, and after reading the book, decided to become a lawyer. Mr. Lee said he regarded Mr. Cole as a good friend and colleague – and a great attorney. He said Mr. Cole was innovative in bringing new approaches to using law to advance environmental justice. He added that Mr. Cole believed that when a community was empowered, it could carry on without an attorney.

Mr. Ridgway expressed hope that Mr. Cole would continue to inspire others. He recommended that a token of condolences be sent to the family of Luke Cole on behalf of NEJAC, and the Council agreed.

4.0 Overview of EPA Office of Environmental Justice

Mr. Lee began his presentation by recognizing the OEJ staff members and Regional Environmental Justice Coordinators present. He then delivered a slide presentation to introduce the vision of the EPA Environmental Justice Program, describe the infrastructure and resources of OEJ and summarize the key OEJ strategies (see Attachment A).

Mr. Lee presented the vision of EPA’s Environmental Justice Program, which consists of the following five elements:

1. Eliminate and prevent disproportionate environmental and public health burdens
2. Build long-term capacity for communities to protect their environments
3. Foster access to environmental benefits to build healthy and sustainable communities
4. Achieve targeted, tangible and measurable results
5. Make environmental justice an assumption, not an afterthought, in EPA decision-making

To illustrate the implementation of this vision, Mr. Lee cited the ReGenesis environmental justice partnership in Spartanburg, South Carolina, where an environmental justice small grant of \$20,000 for a

community with Superfund and brownfield sites was leveraged into more than \$200 million of public-private funds. Mr. Lee recognized Mr. Harold Mitchell, who founded ReGenesis, a community-based, environmental justice organization, as the community leader responsible.

As another example of OEJ's "vision in action," Mr. Lee described an air toxics enforcement success story. Mr. Lee showed two figures that illustrated cancer risks based on air toxics monitoring of butadiene emissions from the Equistar Channelview facility in Houston, Texas, before and after enforcement actions. The figures showed that emissions of butadiene were reduced from 112 tons per year (tons/year) prior to enforcement actions in 2000, to 32 tons/year after enforcement actions in 2005. Mr. Lee pointed out that, as a result of imposing enforcement actions, the community was no longer facing elevated cancer risks. He referred to this case as an example of a measurable environmental or public health result in a disproportionately affected community.

Exhibit 4 presents the mission of OEJ.

Mr. Lee briefly reviewed the Agency-wide environmental justice infrastructure, which consists of the NEJAC, Environmental Justice Executive Steering Committee, EPA Administrator, National Program

Manager for environmental justice (Ms. Cynthia Giles, Assistant Administrator, OECA), OEJ, Headquarters Program and Regional staff, and stakeholder input and partnerships. In terms of resources, the Environmental Justice Program includes 17 staff full-time equivalencies and a budget of \$7.1 million, \$3.2 million of which were part of a Congressional Add-on for Fiscal Year 2009. Mr. Lee stated that there are currently approximately 30 full-time staff dedicated to environmental justice teams; and as a result of the additional Congressional appropriation, OEJ will provide one additional full-time equivalent staff person for each EPA Region in FY 2010.

Mission of EPA Office of Environmental Justice:

"To facilitate Agency efforts to improve environment and public health in environmentally and economically distressed communities by integrating environmental justice in all programs, policies, and activities."

Exhibit 4

Mr. Lee noted opportunities for collaboration with other EPA programs and initiatives with environmental justice emphases, including Community Action for a Renewed Environment (CARE), Children's Health, Tribes, Lead, Brownfields, Smart Growth, Conflict Resolution and Prevention Center, National Diesel Campaign, Indoor Air, Title VI, Urban Waters, and Climate Showcase Communities.

He presented the following key strategies of OEJ:

- Establishing agency-wide infrastructure and implementing priorities of the Environmental Justice Executive Steering Committee
- Advancing collaborative problem-solving to leverage new opportunities, particularly in communities
- Involving historically underrepresented in environmental decision-making by, for example, holding listening sessions, developing social networking strategies, and promoting leadership development among youth
- Incorporating environmental justice in regulatory development. Mr. Lee mentioned that the Office of Management and Budget has indicated that it may be a good idea to have environmental justice-related targets in all five EPA strategic plan goals.
- Promoting priority-setting, targeting and measurable results, as exemplified by quantitative tools such as the Environmental Justice Strategic Enforcement Assessment Tool (EJSEAT) to identify areas of disproportionate impacts.

"Environmental justice helps EPA accomplish its mission more effectively by focusing attention and resources on communities which need them the most."

- Charles Lee, Director, OEJ

Mr. Lee noted that a measure of an organization's commitment to an issue is the kind of resources it is willing to devote to it.

The follow-up discussion to Mr. Lee's remarks included several items:

- Ms. Fisher suggested using Podcasting and Twitter, and Mr. Kelley suggested using Skype as part of OEJ's social networking efforts. Mr. Mustafa Ali, OEJ, indicated that OEJ was considering using new and innovative tools to engage the community. He acknowledged, however, the

existence of a “digital divide” that required continued use of traditional methods of outreach while simultaneously exploring new, more technologically advanced methods. Ms. Robinson added that OEJ was exploring Podcasting selected portions of future NEJAC meetings. Mr. Aragon pointed out that tribes have had to be innovative with satellites because aging infrastructure (for example, telephone lines from the 1940s and 1950s) could not support the increased need for communication. He noted the absence of funding to bring many tribes into “this high tech world.” Mr. Peter Captain, Sr., Vice President, Tanana Chiefs Conference, Fairbanks, Alaska, noted the lack of access to high speed internet in Alaska and that not many people use cell phones. He expressed appreciation for EPA’s efforts to explore ways to expand communication to stakeholders.

- Mr. Rosenthal expressed concern that communication and outreach efforts sometimes fail to reach small towns. He noted the absence of a small town lobby for rural America, stating that most funding for broadband outreach goes to urban America rather than rural or small town areas. While he does not expect EPA to lobby on behalf of small towns, Mr. Rosenthal urged EPA to help ensure that resources go to places that need it.
- Mr. Wilson posed the question of how to bridge gaps between efforts to address environmental justice concerns by various branches of government, acknowledging that EPA cannot handle it all alone. Mr. Lee noted that interagency coordination was a key “emerging issue” for the Council to discuss further. He indicated that opportunities are emerging for EPA to work with other Federal agencies like Department of Transportation, Department of Housing and Urban Development, and Department of Labor. Specifically, Mr. Lee cited a partnership between EPA and DOL in which DOL is seeking grant applications under the Green Jobs Act, which provides for \$500 million in green jobs training.
- Ms. Patricia Salkin, Associate Dean and Director, Government Law Center, Albany Law School, expressed appreciation for EPA’s emphasis on working with other federal agencies; however, she noted that meaningful collaboration must also be explored with State and Local agencies; non-governmental organizations (NGOs), such as national municipal associations, national planning organizations, and councils of State governments; and think tanks like the Brookings Institution. Ms. Salkin also stated her desire to see more publications and Work Groups that help spread the message of OEJ’s accomplishments to a wider audience.
- Mr. Chuck Barlow, Assistant General Counsel, Entergy Corporation, commended Mr. Lee’s statement regarding interagency coordination as a “great cross-cutting statement.” Mr. Prasad agreed, saying that the statement was a good endpoint from which to work backwards to develop OEJ’s Strategic Plan.
- Mr. Kelley stressed the importance that EPA work with “real” grassroots organizations instead of industry advisory panels in its efforts to engage communities. He stated that representatives of the community should actually live in the community and along the fence line. He commended Ms. Shirley Augurson, Associate Director, Office of Environmental Justice and Tribal Affairs; and Ms. Deborah Ponder, Acting Director, Office of Environmental Justice and Tribal Affairs, for their efforts in EPA Region 6 in this regard.
- Mr. Aragon stressed the importance of EPA incorporating an environmental justice analysis component in its National Environmental Policy Act (NEPA) documentation review process. He noted that, based on the Environmental Impact Statements prepared for sites on tribal lands, the absence of environmental justice in NEPA documentation is evident. Ms. Suzi Ruhl, Senior Attorney Policy Advisor, OEJ, stated that NEPA was “front and center” in terms of EPA consideration of environmental justice issues in the siting process. As examples of this effort, Ms. Ruhl cited the work of Mr. Reginald Harris, Region 3 Environmental Justice Coordinator; Mr. Arthur Totten, Office of Federal Activities; and Ms. Deldi Reyes, EPA Region 9 Environmental Justice Program Manager, on how to better develop measures to help communities more effectively participate in the NEPA process.
- Mr. Benjamin described OEJ’s new State Environmental Justice Cooperative Agreement Program, which provides funding to eligible entities (that is, States, U.S. Territories, an instrumentality of the State, and public universities) “so that they may work collaboratively with an affected community to understand, promote and integrate approaches to provide meaningful and measurable improvements to the public health and/or environment in the community.” He reported that five States had been selected but could not identify them as the funding had not yet

been awarded. Mr. Benjamin expressed hope that the approaches developed under these new agreements can be applied throughout the country.

- Mr. Kelley advised that “follow up and follow through” with affected communities should be a key component to improved communication. He also recommended that the EPA Regions should educate companies on how to contact EPA and how to work with EPA to better communicate with and provide resources to grassroots organizations.
- Mr. Kelley encouraged exploration of ways to direct “fine money” back into the affected community. Mr. John Rosenthal, President, National Small Town Alliance, echoed Mr. Kelley’s comment about fines, stating that even under existing regulations, some funds can be put back into local communities where it can be used, and EPA can use its influence to redirect funds. Mr. Aragon recommended that EPA explore using Supplementary Environmental Projects (SEPs) to direct money from environmental violation and enforcement fines to projects that benefit the affected community. He noted that SEPs have proved extremely beneficial on Indian Lands.
- Ms. Yeampierre expressed concern over mainstream environmental organizations that set agendas for the community and occasionally supplant local leadership. She stressed the importance of the community having ownership of the issues that are affecting them.

5.0 NEJAC 15-Year Retrospective

Mr. Tim Fields, MDB, Inc., delivered a presentation that summarized the findings of the draft “NEJAC 15th Anniversary Report;” the draft report evaluated the effects of the NEJAC’s historic recommendations on EPA’s actions, programs and activities (see Attachment B). Mr. Fields referred to a CD included in the meeting participants’ binders that contained every report and recommendation (in PDF) prepared by the NEJAC over the last 15 years. He noted that these resources are also available on the NEJAC’s Web site (www.epa.gov/compliance/environmentaljustice/nejac).

Mr. Fields presented the following goals of the draft report:

- Review the activities and evaluate the performance of NEJAC since 1994.
- Summarize the major NEJAC advice and recommendations over the past 15 years.
- Develop recommendations on how NEJAC can be even more effective in the future.

Mr. Fields reviewed a timeline of significant events throughout the history of OEJ, which included (1) the EPA/NEJAC Superfund Relocation Roundtable held in Pensacola, Florida, in May 1996, which Mr. Stanislaus had noted in his remarks; (2) the Roundtable on environmental justice on the U.S/Mexico border in August 1999, which resulted in changes to international policy; and (3) issuance of the NEJAC report on meaningful involvement and fair treatment by tribal environmental regulatory programs in November 2004, which detailed the necessary contents of a meaningful stakeholder report.

Exhibit 5 presents the purpose of the NEJAC, as described in its charter. Mr. Fields noted that, for some stakeholders, the NEJAC has the additional desired role of serving as an advocate for stakeholders and holding EPA accountable for its actions on matters pertaining to environmental justice. Mr. Fields stated that the real power of the NEJAC is its ability to gather people from diverse stakeholder groups – such as community-based organizations, business and industry organizations, academic and educational institutions, state and local government organizations, tribal government and indigenous organizations, and non-governmental and environmental groups – to reach a consensus.

Purpose of the NEJAC:

“To provide independent advice and recommendations to the EPA administrator about broad, crosscutting issues related to environmental justice, [including] evaluation of a broad range of environment-related strategic, scientific, technological, regulatory and economic issues related to environmental justice.”

- NEJAC Charter, September 2008

Exhibit 5

Mr. Fields stated that 17 NEJAC Special Reports were provided to EPA, and EPA has issued seven official responses. He noted that many other EPA responses have been provided via programmatic and policy changes, and he cited EPA’s Community Action for a Renewed Environment (CARE) program as an example.

In describing the methodology of the 15-Year study, Mr. Fields stated that interviews were conducted with 20 current and former NEJAC members and 24 current and former EPA officials over an eight-to-nine-month period. In addition, a literature review was conducted of NEJAC meeting documents, including those from public dialogues and roundtables and those containing advice and recommendations to EPA. NEJAC reports on specific issues, prepared in response to EPA requests, were also included in the literature review. Mr. Fields recognized the contribution of his colleague, Ms. Joy Chia-I Lee, to the study.

Mr. Fields acknowledged that NEJAC had provided major advice and recommendations to EPA, most notably, in the following areas:

- Model Plan for Public Participation (1994)
- Environmental Justice and Brownfields Revitalization (1995-1996)
- Superfund Permanent Relocation Policy (1995-1996)
- Environmental Justice in the Enforcement Process (1996-1997)
- Waste Transfer Station Siting and Operations Guidance (3/2000)
- Environmental Justice Issues on the U.S.-Mexico Border (1999-2000)
- Environmental Justice in the Permitting Process (8/2000)
- Legal Authorities to Address Environmental Justice
- EPA Statutory and Regulatory Authorities Under which Environmental Justice Issues May be Addressed in Permitting (12/01/2000)
- Community-Based Health Model (2000-2001)
- Federal Facilities (10/2004)
- Consultation and Collaboration with Tribal Governments and Indigenous Communities (2000)
- Integration of Environmental Justice in Federal Programs (2000-2002)
- NEJAC Strategic Plan (11/02/2001)
- EPA response on NEJAC Strategic Plan (11/16/2001)
- Fish Consumption and Environmental Justice (11/19/2002)
- Pollution Prevention and Environmental Justice (7/03/2003)
- Cumulative Health Risks and Impacts (2003-2004)
- Environmental Justice and Tribal Environmental Regulatory Programs (11/2004)
- Unintended Results of Brownfields Redevelopment and Revitalization (8/10/2006)
- EPA Response on Unintended Results of Brownfields Redevelopment and Revitalization (2/02/2007)
- Gulf Coast Hurricanes and Environmental Justice (8/2006)
- EPA Response to Gulf Coast Hurricanes and Environmental Justice (2/02/2007)
- Mechanisms to Enhance Stakeholder Involvement and Management (10/2006)
- EPA Response to Mechanisms to Enhance Stakeholder Involvement and Management (2/02/2007)
- Environmental Justice Achievement Awards (10/2008)
- The role of EPA in creating the CARE Program, Diesel Retrofit Program, Environmental Justice Grants, Brownfields and Superfund Job Training Initiatives, the American Indian Environmental Office, and other EPA initiatives

Mr. Fields reported the following major findings of the 15-year retrospective study:

- NEJAC provides an outside perspective from diverse stakeholders that EPA managers and staff may not otherwise have access to.
- NEJAC brings a group of diverse stakeholders and EPA together in constructive ways to address environmental justice issues.
- NEJAC has played a significant role in educating and sensitizing EPA managers and staff on environmental justice.
- Without NEJAC over the past 15 years, the EPA would not have dealt with environmental justice issues as effectively. NEJAC has played a significant role in helping EPA address environmental justice issues.
- The EPA has not adequately responded to several reports and recommendations provided by NEJAC.

- There are two distinct views on the progression of NEJAC over the past 15 years:
 - The Council improved as it became more focused on broader environmental justice policy issues rather than local community issues, and it has provided high quality advice and recommendations to EPA.
 - The Council has declined due to the waning number of active community members, the lack of adequate numbers of meetings and public dialogues, the lack of clarity on the future of NEJAC in 2005-2006, and the lesser degree of senior EPA management involvement.
- In order to measure the success of NEJAC, the Council should examine the changes in EPA programs, policies and activities that have been influenced by NEJAC – for example, brownfields grant evaluation criteria.
- NEJAC should also measure its success based on the effect the Council has had in communities confronting environmental justice issues, such as the Superfund relocation efforts in Pensacola, Florida.
- NEJAC has provided a number of significant high quality reports on a variety of issues, including brownfields revitalization, environmental permitting, pollution prevention, cumulative health risk effects, and U.S.-Mexico border environmental justice issues.
- NEJAC has helped to sensitize EPA to the needs of Tribal government and indigenous communities.

Mr. Fields presented the following recommendations to NEJAC and EPA “in order to allow NEJAC to be an even more effective environmental justice advisory organization in the future.” He noted the recommendations were not presented in order of priority.

- NEJAC and EPA should take the opportunity provided by a new EPA Administration and its 15th Anniversary to revitalize NEJAC.
- Senior EPA officials and mid-level managers need to be actively involved and engaged with NEJAC, including representatives of the EPA Executive Steering Committee on environmental justice, and other senior EPA officials need to attend NEJAC meetings and have a real dialogue with NEJAC members.
- Adequate resource support must be provided by EPA Headquarters, OEJ and EPA Regions to support NEJAC activities. The general sense is that the NEJAC budget needs to be increased.
- There is a need for a better feedback mechanism between NEJAC and EPA regarding NEJAC advice and recommendations.
- As was the case in its earlier years, NEJAC should increase the inclusion of testimony at its meetings from affected community members or community-based organizations. In particular, these individuals should have input on environmental justice topics being addressed by NEJAC.
- EPA should make it a priority to adequately respond in a timely manner to the advice and recommendations provided by NEJAC (that is, in less than 1 year).
- EPA needs to provide periodic feedback to NEJAC on the status of the implementation of activities agreed to in response to NEJAC advice and recommendations.
- EPA and NEJAC should review prior major NEJAC advice and recommendations and should ensure that an adequate EPA response or other appropriate actions have been provided.
- The performance of NEJAC should be measured, where applicable, by the following:
 - Changes in EPA programs, policies and activities influenced by NEJAC advice and recommendations
 - Whether NEJAC is focusing on the correct, highest priority environmental justice issues
 - Whether NEJAC activities, advice and recommendations are making a positive difference in the lives of citizens confronting environmental justice issues
 - The number and quality of the reports prepared by NEJAC
- EPA regional environmental justice forums should be mandated at least annually as a means to address more local stakeholder issues. Regions should have flexibility regarding the types of environmental justice forums needed to address its stakeholder needs. Regions should also get States involved in these forums.
- NEJAC should receive periodic summaries of the major outcomes of EPA Regional environmental justice forums.
- NEJAC should get involved on region-specific environmental justice issues that become

- nationally significant – for example, by conducting a Public Dialogue meeting at that location.
- NEJAC should continue to meet face-to-face at least twice annually.
- NEJAC should continue its recent practice of conducting two public teleconference calls annually as a way to expand public participation at its meetings.
- NEJAC should continue its practice of primarily focusing on broad, cross-cutting environmental justice issues.
- NEJAC should coordinate with EPA on setting its priorities and an agenda based on significant environmental justice issues that are affecting communities across the nation, and also based on EPA priorities that NEJAC members believe have significant environmental justice implications.
- NEJAC and EPA should work together to ensure high quality, diversity and balance in the makeup of Council membership.
- NEJAC should create a small Agenda Committee that works continuously with EPA management to define the ongoing and future agenda for NEJAC meetings.
- EPA should work with NEJAC to find mechanisms for keeping willing former NEJAC members involved in NEJAC activities as a valuable resource, to the extent feasible. (This allows learning from individuals with a history of involvement in environmental justice.)
- NEJAC meetings should be better distributed across the United States; for example, NEJAC should host meetings in Regions where meetings have not been held to date.
- NEJAC should engage more with other Federal agencies, such as members of the Interagency Work Group on Environmental Justice.
- NEJAC should be continued in the future, with a commitment to make recommended improvements.

Mr. Fields expressed the importance of EPA providing a response to each report generated by the NEJAC. He stated that the statements from Mr. Stanislaus and Mr. Owens were encouraging, as was the increased engagement of EPA managers with the NEJAC. He was also encouraged that Ms. Giles and the Environmental Justice Executive Steering Committee would also be engaging with the NEJAC.

Mr. Fields concluded by asking the Council to provide comments on the draft 15-Year Report by August 17. He indicated that there would be a follow-up public conference call in September 2009 to finalize the report.

Discussion following Mr. Fields' presentation included the following remarks:

- Mr. Ridgway suggested dividing up previous NEJAC reports and recommendations among members to evaluate the status of recommendations and report back to the Council. Mr. Fields agreed with the suggestion and added that EPA could do more work in response to the fish consumption and cumulative health risk reports. Mr. Fields also noted that, in some cases, EPA may have incorporated the recommendation in its policies and activities but did not provide a formal response to the NEJAC.
- Ms. Robinson stated that the issue of potentially inadequate response by agencies to recommendations presented by federal advisory committees is a government-wide concern. She reported that, based on a survey of advisory committees, the general consensus was that federal agencies' response was inadequate. Ms. Robinson said it is important to look at how advisory committee members want to receive feedback. She noted that the Council is developing a response procedure that could serve as a template for other advisory committees.
- Ms. Catron expressed her concern with the accessibility of NEJAC members to the groups they represent. She acknowledged that NEJAC meetings are only accessible to her because she serves on the Council. For other grassroots community-based organizers, however, Ms. Catron said the meetings are "highly inaccessible." She said NEJAC meetings should be more accessible, and she pointed out that her home state, Wyoming, is in Region 8 and NEJAC has never hosted a meeting there. Mr. Fields noted that funding has been an issue in the past, but he expressed optimism that, with increased resources, EPA could more effectively engage communities in NEJAC discussions.
- Ms. Fisher requested clarification on the recommendation that "Senior EPA officials and mid-level managers be more actively involved and engaged with NEJAC..." (see Attachment B, slide 32). Mr. Fields stated that he was referring to the active engagement of senior-level EPA officials –

like Mr. Stanislaus, Mr. Owens, Ms. Giles, and members of the Environmental Justice Executive Steering Committee – at NEJAC meetings. He expressed hope that these officials would not just show up once, but that they would continue dialogue with NEJAC members on environmental justice issues. Ms. Fisher added that there should be action items following the dialogue.

- Ms. Fisher requested clarification on the phrase “correct priority environmental justice issues” (see Attachment B, slide 36) in terms of who would determine priority issues for the Council and how accountability would be measured. Mr. Fields responded that the agenda committee, which he proposed in his recommendations, would work with EPA management to identify key areas that the NEJAC should focus on. He added that accountability could be measured based on individual community experiences. As an example, he expressed hope that in the aftermath of a disaster like Hurricane Katrina, the NEJAC would generate a report of recommendations that would include the creation of an environmental justice liaison at the Emergency Management Center to ensure the proper treatment of the affected community.
- Mr. Rosenthal suggested that NEJAC members engage with other Federal agencies through its association with EPA, and that EPA should incorporate the expertise of NEJAC alumni in Work Groups as well as other Federal Advisory Committees with limited representation from the environmental justice arena. Mr. Fields agreed, stating that the NEJAC charter allows for it to connect with other FACA committees. He suggested maintaining contact with former NEJAC members like Ms. Wilma Subra, President, Subra Company, who may have moved on to other FACA committees.
- Mr. Prasad noted the “slippery path” on which NEJAC is treading when deciding on its role in local issues while engaging in broader policy issues. Mr. Fields suggested a compromise, where EPA Regions would need to better engage communities in environmental justice listening sessions with stakeholders, and the NEJAC would focus on major nationally significant local issues.
- As part of the effort to develop a framework for EPA response to NEJAC recommendations, Mr. Prasad recommended that EPA provide follow-up within 6 months or by the next NEJAC meeting.
- Mr. Kelley stated that a “successful NEJAC” requires council members to be better educated on the issues. He suggested that members visit affected communities, under the auspices of EPA, within 100 to 150 miles radius of their areas or jurisdictions. He noted that funding resources would be required to facilitate their visits to such communities.
- Mr. Marsh added that it was important to establish a process at the regional and state levels to identify priorities. He urged the inclusion of tribes and statewide coordinating bodies into those decisions.
- Ms. Salkin noted that it would be useful to quantify the value of NEJAC in terms of the amount of cumulative volunteer time members have put into NEJAC meetings and activities. She also suggested interviewing stakeholders who have not been members of NEJAC to evaluate others’ expectations of the Council. She stressed the need to balance NEJAC meeting agendas between follow-up of ongoing work and discussing emerging issues.
- Ms. Robinson committed to coordinating with the Council on revising and updating the NEJAC bylaws (now called Standard Operating Procedures).

6.0 Discussion on Enhancing NEJAC Engagement With Affected Communities

Ms. Yeampierre acknowledged the contributions of former NEJAC members Ms. Deohn Ferris, Sustainable Community Development Group, Inc.; Ms. Eileen Gauna, University of New Mexico; Mr. Arthur Ray, Wiley Environmental Strategies; and Mr. Richard Gragg, Florida A & M University. She indicated that for the NEJAC to be effective and strategic, it was important to engage grassroots organizations in a meaningful way. She asked whether NEJAC should develop an action plan for community engagement. She cited the example of listening sessions that were held in New York City, where community members could have benefited from direction on how to follow up with the Agency when there was no response to their concerns. She asked Council members to consider the question, “What are ‘impacted’ communities?” and suggested the inclusion of criteria such as rates of incarceration, or areas where electronics waste is recycled.

Mr. Wilson echoed the need to define “impacted community,” adding that regional and state responsibilities may overlap, and “communities” should include tribal lands. He noted that financial resources may be a factor. He urged the NEJAC not to view “communities” according to political boundaries. Ms. Yeampierre pointed out that although regional interactions are important, there are differences particular to a group that may require special attention locally.

Ms. Catron agreed with the need for a community-wide perspective that transcends political borders. She noted that, in her work as a watershed advocate, she deals with the challenge of funding allocations and priorities that are based on political boundaries. She reminded the Council that “pollution knows no boundaries.” She also acknowledged the challenges of tribal lands vs. political boundaries, and she encouraged EPA to respect tribal sovereignty. She pointed out that EPA programs deal with federally recognized tribes, but that there are tribal corporations like the one Mr. Captain represents, that are not federally recognized. Ms. Catron informed members of the Council that she was not welcomed at the National Tribal Operations Committee (NTOC) meeting because she was told she does not represent a tribe; however, she does represent a community. She urged further discussion regarding the issue of “transcending political boundaries,” pointing out the key role of Regional environmental justice offices as “convener for communities as well as tribal lands.”

Ms. Briggum echoed Ms. Catron’s comments about the important role of regional environmental justice coordinators. She suggested soliciting their input about priority issues for the NEJAC’s consideration as a means to “ground truth” and recognize the advisory role of the Council with no decision-making authority. Ms. Robinson concurred. Ms. Henneke agreed that the NEJAC should focus on issues that would be useful to EPA. She also recommended that the Council work on a “macro level” where proposals can be applied in multiple ways, instead of focusing on individual sites.

Ms. Fisher requested that EPA engage communities along the Gulf Coast that have unique concerns, such as exposure to emissions from oil refineries and loss of wetlands as buffer during storm events.

Mr. Barlow inquired about the extent to which EPA directs the NEJAC and how the Council should be spending time on national issues. Ms. Robinson acknowledged that there are different ways in which the NEJAC can provide advice and recommendations. She explained that some federal advisory committees provide peer review and specific advice at EPA’s request, while others are almost autonomous in that members develop their own agendas. She stated that the NEJAC is a hybrid of these two approaches, where EPA has worked with subcommittees and steering committees to jointly address emerging trends. Ms. Robinson noted that the Council needed to develop and clarify a reliable process, so that new members will know what to expect.

Mr. Holmes agreed with the need for clarifying expectations of the NEJAC, for example, whether the Council should focus on policy, programs or advocacy. Ms. Yeampierre noted that all three areas were important and should be addressed by the NEJAC.

Mr. Aragon stated that NEJAC needs to “stand up for all people, not just disadvantaged communities.” He presented the example of two “very affluent communities” in Wyoming that sought his organization’s help in lobbying EPA to clean up the city of Casper and oppose the expansion of a nuclear waste incinerator near Jacksonville. Ms. Yeampierre responded that environmental justice is primarily an issue for people who have been marginalized and oppressed. While she agreed that “we all breathe the same air,” it is often vulnerable communities that bear a disproportionate burden of pollution.

Mr. Kelley stated the need for a mechanism to secure funding to actually do the work to recover land. He noted that EPA Regions provide funding for site assessment and remediation but not for the complicated process of restoring the land to beneficial use. He presented the example of proposed solar panel farms in his community that would create green jobs but would require a lengthy process through the Department of Energy to obtain funding to do the work.

Mr. Ridgway introduced Ms. Deeohn Ferris, and explained that Ms. Ferris had agreed to serve as a consultant to OEJ to facilitate a NEJAC Work Group tasked with making recommendations for EPA to

increase its engagement with environmental justice communities.

Ms. Robinson wrapped up the session by thanking the Council members for their comments and alerting members of the opportunity to serve on the Work Group on engaging communities.

7.0 Dialogue With EPA Environmental Justice Executive Steering Committee

Ms. Laura Yoshii, co-chair of EPA's Environmental Justice Executive Steering Committee, thanked the NEJAC for its service to the Agency. She described the steering committee as an internal organization of all senior officials from EPA's Regional offices (Deputy Regional Administrators) and Headquarters (Deputy Assistant Administrators) whose mission is to provide leadership in focusing EPA on priority issues, especially with respect to budget alignment, policy and program implementation issues. Exhibit 6 lists the Committee members.

Ms. Yoshii stated that, based on input from the NEJAC, the Steering Committee identified the following as priority environmental justice issues:

1. Goods movement and air toxics
2. Showcase communities
3. Rulemaking
4. Climate Policy and Climate Change
5. Water infrastructure

Ms. Yoshii stated that in these areas, various regions are taking lead roles in developing work plans for submittal to the Environmental Justice Executive Steering Committee.

EPA Environmental Justice Executive Steering Committee		Exhibit 6
Mr. Ira Leighton		Region 1
Mr. George Pavlou		Region 2
Mr. Jim Newsom		Region 3
Mr. Russell L. Wright		Region 4
Mr. Bharat Mathur		Region 5
Mr. Larry Starfield		Region 6
Mr. William Rice		Region 7
Ms. Carol Rushin		Region 8
Ms. Laura Yoshii		Region 9
Ms. Michelle Pirzadeh		Region 10
Mr. Rob Brenner		Headquarters, Office of Air and Radiation
Mr. Scott Fulton		Headquarters, Office of International Activities
Ms. Catherine McCabe		Headquarters, Office of Enforcement and Compliance Assurance
Ms. Louise Wise		Headquarters, Office of Policy, Economics and Innovation
Ms. Linda Travers		Headquarters, Office of Environmental Information
Mr. Jim Jones		Headquarters, Office of Prevention, Pesticides, and Toxic Substances
Mr. Kevin Teichman		Headquarters, Office of Research and Development
Mr. Barry Breen		Headquarters, Office of Solid Waste and Emergency Response
Mr. Mike Shapiro		Headquarters, Office of Water
Ms. Patricia K. Hirsch		Headquarters, Office of General Counsel
Mr. Charles Lee		Headquarters, Office of Environmental Justice

She assured the Executive Council members that environmental justice is not an afterthought at EPA. She acknowledged that EPA has learned lessons in engaging and supporting the active involvement of communities, and EPA is committed to engaging those that the Agency serves.

Following Ms. Yoshii's remarks, members of the Executive Steering Committee had discussions with the NEJAC members regarding the five priority areas.

7.1 Goods Movement and Air Toxics

Mr. Rick Parkins, EPA Region 10, introduced Ms. Michelle Pirzadeh, Deputy Regional Administrator, EPA Region 10; and Ms. Gay McGregor, EPA Office of Transportation and Air, as chair and co-chair, respectively, of the Executive Steering Committee's subcommittee on Goods Movement and Air Toxics.

He stated that the subcommittee was comprised of Deputy Regional Administrators from EPA Regions 2, 4, 9 and 10 as well as Assistant Administrators from EPA's Offices of Pollution Prevention and Innovation, Research and Development, Enforcement and Compliance Assurance, and International Affairs. Mr. Parkins indicated that the subcommittee was charged to (1) recommend one to three goals related to addressing the negative effects of goods movement on low-income, tribal and minority communities and (2) develop an implementation plan to accomplish those goals. He noted that, among other sources, the subcommittee consulted with the NEJAC's Goods Movement Work Group.

Mr. Parkins explained that the subcommittee had developed two goals aimed at addressing two major gaps identified by NEJAC and others:

Goal 1: Address information gaps regarding the location of goods movement centers (including airports and train terminals), the location of communities near them and the effects of good movement on those communities.

Goal 2: Facilitate the evaluation of proposed activities and the effects of those activities.

Ms. McGregor added that the subcommittee was in the process of selecting a geographic region where data was limited on the location of goods movement centers. She stated that one or two communities are working on collective governance projects – that is, in collaboration with their local governments – to develop approaches for mitigating the affects of goods movement and engaging the communities. She said that the projects were slated for completion by 2010.

7.2 Showcase Communities

Mr. Miguel Flores, EPA Region 6, indicated that he was representing Mr. Larry Starfield, Acting Deputy Regional Administrator for Region 6. Mr. Flores described efforts in Region 6 to engage multiple stakeholders in addressing environmental justice concerns. Pointing specifically to "demonstration projects," which are similar to brownfields projects, he said EPA intended for those projects to be managed and implemented using a regional approach, across media; and he expressed hope that this regional approach could be replicated in other communities. He stated that opportunities were available for collaborations with communities, particularly with respect to green development and green jobs. Mr. Flores noted the importance of keeping the community informed. He acknowledged EPA Administrator Jackson's desire for measurable outcomes and, as a result, he pointed out that the programs must be robust, results oriented, and involve sustainable partnerships especially with community organizations in affected areas.

Mr. Flores informed NEJAC members that EPA had developed new alliances with universities during the process of working toward environmental justice and addressing cumulative health risks posed to low-income, minority and tribal communities. He acknowledged the challenge of limited funding but expressed optimism that even with a little funding, community capacity can be built

7.3 Rulemaking

Mr. Mikes Burns, EPA OPPTS, spoke on behalf of Jim Jones, Acting Assistant Administrator, OPPTS, who was not able to attend. Mr. Burns stated his subcommittee's goal of developing a more systematic method to incorporate environmental justice concerns in every step of the EPA rulemaking process. He explained that all rules proposed for adoption by EPA would be subjected to three basic questions:

1. What did you do to assess disproportionate effects and environmental justice concerns?
2. How did you engage the populations that are going to be most affected?
3. How did that work [with the communities] to affect the rule that you're asking the EPA Administrator to sign?

Mr. Burns stated that EPA had, admittedly, just begun to ask those questions at the end of the rulemaking process. He acknowledged that it would be better to ask those questions at the beginning of the process, and the work group is working toward that end.

The rulemaking subcommittee's work includes the development of two main guidance documents, which Mr. Burns summarized:

1. Process Guidance is underway and will address every stage in the rulemaking process (for example, the kinds of questions to be asked, information to be gathered and analyses to be done). He explained that the process guidance would be tested against several high-profile rulemaking efforts, including the ones on formaldehyde, pesticide worker protection, the definition of solid waste, and some rules in EPA's air and water programs.
2. Technical Guidance is being drafted, which will likely be an "evolving set of tools and guidance" on conducting analyses to determine disproportionate effects on communities and engaging the communities that may be affected.

Mr. Burns stated that the two guidance documents were being developed simultaneously, with the completion goal of summer 2010.

7.4 Climate Policy and Climate Change

Mr. Lee explained that one way to address the issue of climate change is to identify opportunities to advance environmental justice within the context of "green economy goals." He acknowledged the contribution of Mr. Ira Leighton, Acting Regional Administrator, EPA Region 1, who has been playing a lead role in envisioning what this might look like based on concrete examples. Mr. Lee presented the example of EPA Region 1 developing partnerships with the Department of Labor to solicit grant applications under the Green Jobs Act. That act, he pointed out, is providing \$500 million worth of funding. Specifically, Mr. Lee said that EPA Region 1 had been working with the Job Corps, which is training 100,000 students at 122 centers nationally. EPA and the Department of Labor have found a synergy to work together to develop the next generation of the nation's green workforce, he added, and he expressed optimism that the experience in Region 1 can be spread across the nation. Mr. Lee identified other areas for inter- and intra-agency partnerships, and noted the fact that Vice President Joe Biden recently called for federal agencies to work together on green development projects.

7.5 Drinking Water and Wastewater Infrastructure

Ms. Nancy Gelb, Acting Director, EPA Office of Ground Water and Drinking Water, described EPA's efforts to ensure safe drinking water and wastewater infrastructure for all communities. She noted that in most small communities, water infrastructure improvements are often impeded by lack of funding for scalable, affordable solutions. She said the National Tribal Council has reported a lack of resources to train and hire certified Operation and Maintenance workers for water treatment facilities. She noted that the need to address these issues was underscored by the Indian Program Policy Council, comprised of senior EPA leadership representatives from every region.

Ms. Gelb highlighted recent actions directed at addressing drinking water and waste water needs in underserved communities, including the American Reinvestment and Recovery Act (ARRA), which provided \$6 billion to EPA to improve drinking water and wastewater systems nationally. The Act, she explained, included provisions for additional subsidies beyond the traditional loan process, which potentially would make funding more accessible to disadvantaged communities that would not otherwise be able to afford a loan. She said that on July 8, 2009, EPA and the Indian Health Services jointly announced that \$90 million in ARRA funds were available to improve access to safe drinking water and adequate wastewater services on Indian Lands. The Federal Interagency Task Force, comprised of EPA, Indian Health Services, and the U.S. Department of Agriculture, anticipates a total of \$249 million will benefit Native American tribes under ARRA, providing drinking water access to more than 7,400 homes and wastewater services for more than 4,300 homes. Another \$33 million in EPA ARRA funds will be allocated for similar efforts in Trust Territories, Ms. Gelb explained.

Ms. Gelb reported that the President's proposed budget for 2010, which contains significantly increased

water infrastructure investments over recent budget years, would establish higher set-asides for tribes (from 1.5% to 2.0%) and territories (from 0.33% to 1.5%). She stated that to date, it appeared that the House of Representatives and the Senate were agreeing with these increases.

The follow-up discussion to Ms. Gelb's comments included the following:

- Ms. Briggum commended OPPTS for their efforts to incorporate environmental justice into EPA rulemaking processes. She offered input from the Nationally Consistent Environmental Justice Screening Approaches Work Group that she co-chairs with Ms. Eileen Gauna, Professor, University of New Mexico, on ways that solid waste analysis can be used to enhance EPA's efforts to address environmental justice concerns. Mr. Jim Jones expressed his appreciation for the offer.
- Mr. Holmes referred to the representatives from Mossville, Louisiana, who spoke during the Public Comment period the previous night. He acknowledged that other communities may be facing similar problems and asked whether there are many other communities like Mossville. Mr. Burns noted that EPA cannot relocate everyone. Mr. Mike Gadosh, Acting Regional Administrator, EPA Region 8, added that discussions around the Agency's 2011 budget have focused on healthy communities and that there are opportunities to leverage resources for multimedia assessments. Mr. Gadosh acknowledged Mr. Prasad's comment that climate change is a local issue. He stated that EPA Region 8 was trying to listen to communities but also act in collaboration with healthy community grassroots groups.
- Mr. Rob Brenner, Acting Assistant Administrator, EPA Office of Air and Radiation, expressed the need to set good standards that are sensitive to community concerns; and also to be involved in infrastructure and economic development issues. He acknowledged many ways for EPA to get involved within its mandate. Mr. Flores stated that EPA Region 6 had been involved with the Mossville community for a while. He stated that the Region's Superfund and RCRA programs have engaged in significant cleanup, and some community relocations had occurred. Mr. Brenner further stated that the Agency is faced with the challenge of dealing with "legacy pollutants" in many areas, however, EPA can facilitate discussions between facilities in question and local communities to develop "win-win" solutions. Mr. Flores said that EPA has offered this opportunity to Mossville and plans to continue to work with them.
- Mr. Parkin acknowledged that there are communities in Alaska that face conditions similar to those in Mossville. He noted that extensive development on tribal lands have forced local residents to change their way of life and their culture. He added that many tribes were forced into poverty when they were forced to live under "a western paradigm." Mr. Parkin stated that EPA Region 10 was proud of its ability to listen to the community, but they were shocked to learn of the levels of poverty on tribal lands, especially along the north slope of Alaska. He noted that they were taking "baby steps" to learn and improve their engagement with the communities through listening sessions. Mr. Captain pointed out that the cost of gasoline or heating oil could run up to \$15 per gallon in some rural areas, while \$3.24 per gallon is not uncommon in Anchorage. He also pointed out that project funding in Alaska has less value because more than half of the funding goes to shipping costs associated with getting materials there.
- In terms of climate change and facility siting, Ms. Yeampierre expressed concern over cases where new facilities with lower emissions enter a community that already has polluting facilities. She asked that EPA explore incentives for operators of old "peakers" to replace their facilities with new ones.
- In response to Mr. Parkin's comment about taking "baby steps" through listening sessions, Ms. Yeampierre expressed concern over the urgency of issues, such as the disappearing ecosystem in Alaska. She also noted that the Agency needed to consider cultural issues when engaging communities in listening sessions, and that it was important to develop an action plan with a timeline for follow-up, as well as keep communities informed of progress made toward addressing their concerns.
- Mr. Aragon stated that he was encouraged by the presentation delivered by Ms. Gelb on EPA's efforts with water infrastructure issues on tribal lands. He noted the challenge of funding in the Indian Health Services, and stressed the need for agencies to work cooperatively so that various funding sources can be explored and pooled. He presented the example of the U.S. Department of Agriculture, which provides funding for tribes to purchase equipment to manage solid waste but not to address Operation and Maintenance. Mr. Aragon also acknowledged the delicate balance

of the tribes having primacy over implementing environmental statutes like the Clean Air Act, Clean Water Act, and Safe Drinking Water Act; but still needing technical and financial assistance to do that work. Finally, Mr. Aragon stressed the need for EPA to be culturally sensitive of tribes. He stated that he had visited Alaska eight or nine years ago with Mr. Gogal and other EPA staff members to observe the affects of harsh winters on the community. He urged EPA to be aware that, as tribal lifestyles are changed, there is a need for help with the transition. Ms. Gelb acknowledged that the environmental issues in Alaska are very different. She recalled visiting the village of Newtok, Alaska, which was being relocated due to the effects of climate change. Ms. Gelb said she was in Alaska as part of an Interagency Task Force to discuss allocation and prioritization of funding. She added that the Interagency Task Force was also looking into Operation and Maintenance issues, and members are “working together as a federal family” to find solutions.

- Ms. Fisher asked Mr. Flores about the capability of EPA Region 6 to assist States in siting facilities. She noted that facility sitings affect environmental justice communities in the region more than anything else. In St. James Parish, she added, three new facilities were scheduled to be sited in addition to the three existing ones. Mr. Flores stated that EPA could work with communities to help characterize the nature of the problem, and EPA could then use its regulatory authority to ensure that States are properly enforcing their own regulations and performing adequate oversight. He added that EPA can also be a “convener of stakeholders” to facilitate equitable solutions for all parties involved.
- Mr. Wilson expressed concern about the issue of state primacy, where a state might say, “We’ve got your fed money, now back off.” Mr. Parkin pointed out that the NEJAC Goods Movement Work Group has discussed the need for EPA to oversee states’ uses of federal funds. He added that discussions are underway about how to deal with states in region 10 that do not recognize federally recognized tribes and their sovereignty. Other members expressed agreement that state governance and use of federal funding is something that needs to be addressed.
- Ms. Henneke referred to Supplementary Environmental Projects (SEPs) as a way to ensure that communities impacted by environmental violations receive some benefits – for example, funding to retrofit their buses – so they can “see and feel a real effect.” Mr. Marsh agreed that there are opportunities to use SEPs in ways that benefit the community and fuel broader investments into the community.
- Ms. Yeampierre requested further analysis on affected communities in Puerto Rico, which have limited access to clean water because the resorts are using it all up. She noted that there was no representation on the NEJAC from the island.
- Ms. Catron recommended that EPA staff consult the NEJAC publication, “Meaningful Involvement and Fair Treatment by Tribal Environmental Regulatory Programs” (2004), for guidance on engaging tribal communities.

Ms. Yoshii and Ms. Giles expressed their appreciation for the Council's input and their eager anticipation of more active engagement with the NEJAC as the Agency reinvigorates its environmental justice efforts across all programs.

8.0 NEJAC Work Group Reports

Three NEJAC work groups – the Goods Movement Work Group, the Nationally Consistent Environmental Justice Screening Approaches Work Group, and the School Air Toxics Monitoring Work Group – presented information to the Council and provided updates of their ongoing efforts.

8.1 Goods Movement Work Group

The Goods Movement Work Group, formed in 2007, is charged with providing “advice and recommendations about how the Agency can most effectively promote strategies, in partnership with Federal, state, tribal and local government agencies, and other stakeholders, to identify, mitigate, and/or prevent the disproportionate burden on communities of air pollution resulting from goods movement.” Goods movement, within the context of the charge, refers to the transportation of goods domestically via

truck, ship, airplane or locomotive as well as its associated infrastructure. Goods movement infrastructure consists of roads, ports, airports, rail yards, rail lines, intermodal facilities, border crossings and distribution centers. Goods movement is a major source of diesel emissions nationwide, accounting for 30 to 50 percent of total air emissions depending on the region. These emissions are concentrated in goods movement “hubs” often adjacent to or located within low-income or minority communities. Exhibit 7 lists the members of the Work Group.

Exhibit 7
NEJAC Goods Movement Work Group Members
Mr. Shankar Prasad, Co-Chair Mr. Terry Goff, Co-Chair Ms. Victoria Robinson, DFO Ms. Margaret Gordon Mr. Wayne Grotheer Ms. Andrea Hricko Ms. Joyce King Mr. J. Langdon Marsh Mr. Kirk Markwald Ms. Cynthia Marvin Mr. Gregory Melanson Mr. Omega Wilson

Mr. Prasad and Mr. Terry Goff, Caterpillar Inc., co-chairs of the Goods Movement Work Group, presented the major points contained in the Work Group’s draft recommendations report. The draft report highlights the direct and indirect methods by which EPA can address environmental injustices associated with the transport of goods. Specifically, Mr. Prasad and Mr. Goff provided an overview of 40 recommendations presented in its draft report, “Reducing Air Emissions Associated With Goods Movement: Working Towards Environmental Justice.”

Mr. Goff pointed out that the draft report contained three overarching themes:

1. There is a need to focus on the health effects of goods movement on affected communities.
2. Urgent action should be taken on this matter.
3. Different approaches are needed when mitigating effects of existing and new goods movement facilities and activities.

In conclusion, Mr. Goff said the draft report indicates that “there is not a singular, national solution to this challenge [because] much of the challenge is localized.” As a result, EPA Regions must be directly involved in how local and state governments and local communities are dealing with goods movement issues.

After much discussion, the Council unanimously agreed to adopt the report predicated on certain revisions and submit it to EPA Administrator Jackson.

8.2 Nationally Consistent Environmental Justice Screening Approaches Work Group

Ms. Briggum and Ms. Eileen Gauna, Professor, University of New Mexico, serve as the Co-chairs for the Nationally Consistent Environmental Justice Screening Approaches (NCEJSA) Work Group. Mr. Mustafa Ali, OEJ, serves as the DFO for the NCEJSA Work Group. Other members of the NCEJSA Work Group are listed in Exhibit 8.

Exhibit 8
NEJAC Nationally Consistent Environmental Justice Screening Approaches Work Group Members
Ms. Sue Briggum, Co-Chair Ms. Eileen Gauna, Co-Chair Mr. Mustafa Ali, DFO Ms. Jodena Henneke Mr. Russ Lopez Ms. Juliana Maantay Mr. Paul Mohai Mr. Richard Moore Mr. Shankar Prasad Mr. Omega Wilson

Ms. Briggum and Ms. Gauna reported on the Work Group’s efforts to better understand EPA’s Environmental Justice Strategic Enforcement Assessment Tool (EJSEAT) and provide recommendations. The tool, designed to identify environmental justice communities, was developed by EPA’s OECA (see Exhibit 9, EJSEAT).

Ms. Gauna reviewed the history of the Work Group and the importance of its work. She referred to the Council’s briefing on EJSEAT in 2007 by OECA, when the tool was first being developed. She recalled that, at that time, members of the NEJAC had some concerns about this tool, including its intended use, appropriateness for certain applications, adequacy of data inputs, transparency, and others. The NEJAC had sent a letter to Mr. Granta Nakayama, then Assistant Administrator of OECA, expressing their concerns. In response, Mr. Nakayama requested the NEJAC’s advice and recommendations on ways that OECA should approach

environmental justice screening. The Work Group, Ms. Gauna further explained, was convened in 2008 as part of that request.

Ms. Gauna stated that the Work Group had held two in-person meetings, in June and October 2008. She expressed appreciation for her fellow Work Group members, including Ms. Henneke for providing a state perspective. She commended EPA for its role in providing resources to help the Work Group members understand EJSEAT.

Ms. Gauna identified two broad categories of the Work Group's efforts and summarized its preliminary findings:

1. Technical. EJSEAT contains data ranging from reliable to weak. The Work Group has observed the "overweighting" and "underweighting" of some indicators.
2. Policy. There are broader policy concerns arising from the use of the tool that carry the risk of misapplication.

Exhibit 9
Environmental Justice Strategic Enforcement Assessment Tool
The Environmental Justice Strategic Enforcement Assessment Tool (EJSEAT) was created by EPA's Office of Enforcement and Compliance Assurance (OECA) to consistently identify areas with potentially disproportionately high and adverse environmental and public health burdens. EJSEAT uses 18 select federally-recognized or managed databases and a simple algorithm to identify such areas. EJSEAT is currently a draft tool in development, intended for internal EPA use only.
Source: www.epa.gov/compliance/resources/policies/ej/ej-seat.html

Ms. Gauna noted the popular misconception that EJSEAT was a tool to "define environmental justice communities." She cautioned, however, that it is not an "off the shelf, one-size-fits-all method that can be applied broadly or site

specifically." She stated that while it was premature to get into substantive findings, she noted that the Work Group was close to finalizing its report. Ms. Gauna explained that there was a need to hold discussions with new individuals within EPA who have recently moved into senior policymaking roles. She also referred to pilot studies that were scheduled for completion in September 2009 and expressed hope that the findings from those studies would inform the Work Group's initial recommendations.

Highlights of the follow-up discussion included:

- Ms. Gauna clarified that the results of the pilot studies would be presented internally to the NEJAC.
- Mr. Yeampierre asked for an explanation of the screening tool criteria. Ms. Gauna stated that she preferred to avoid a detailed discussion because there were many interrelated components. She did indicate, however, that a community that did not receive a "high ranking" may still be an environmental justice community. She added that EJSEAT was a "very coarse screen that [would] identify areas of potential concern" for further examination. She acknowledged that the approach uses National databases that may not have the most detailed or updated local land data. She cautioned against the potential misapplication of some of the available data.
- Ms. Robinson clarified that the next steps for the Work Group were to prepare a draft report, submit it to the Executive Council for review, and discuss the recommendations with the Council, either via teleconference or at the next in-person NEJAC meeting.

8.3 School Air Toxics Monitoring Work Group

Ms. Vernice Miller-Travis, Co-Chair, School Air Toxics Monitoring Work Group, stated this was the Work Group's first opportunity to present its work to the NEJAC. She acknowledged the other Co-chair, Ms. Kathryn Brown, University of Cincinnati College of Medicine, who was not present at the meeting; and noted that the Work Group's efforts were led by EPA's Office of Air Quality Planning and Standards (OAQPS). Other members of the Work Group are listed in Exhibit 10.

Exhibit 10**NEJAC School Air Toxics
Monitoring Work Group Members**

Ms. M. Kathryn Brown, Co-Chair
 Ms. Vernice Miller-Travis, Co-Chair
 Ms. Victoria Robinson, DFO
 Mr. Darryl Alexander
 Ms. Claire Barnette
 Ms. Rita Harris
 Mr. Hilton Kelley
 Mr. Elvin D. Lang
 Mr. Paul Mohai
 Ms. Nicky Sheats
 Ms. Alexandra VelValle

Ms. Laura McKelvey, EPA OAQPS, delivered a slide presentation on this topic (see Attachment C). She described the Work Group's monitoring effort that focused on relative health risks around schools based on EPA's Risk-Screening Environmental Indicator Model and information from the Toxics Release Inventory. Ms. McKelvey pointed out that the Work Group's monitoring efforts shed light on the issue of children's potential exposure to air toxics. In response to these findings, she explained, the EPA Administrator committed to gather additional data on potential exposure to children from various facilities.

Ms. McKelvey reported that in March 2009, EPA launched a monitoring initiative that involved 62 schools in 22 states. As directed by the Administrator, EPA focused on schools near large facilities, urban areas where air toxics come from a variety of sources, and areas where environmental justice issues are

potentially a concern. She added that EPA selected the schools based on research conducted by USA Today; the Draft 2003 National Toxics Assessment; environmental justice screening analyses; and considerable discussions with EPA regional staff and state and local air agencies.

Ms. McKelvey and Ms. Miller-Travis demonstrated the use of the Web site, www.epa.gov/school, which allows users to view the pollutants and associated concentrations measured at specific schools. Ms. Miller-Travis noted that the Work Group contributed to the initiative by providing input to the community involvement plan and development of the Web site. She explained that discussions were underway about obtaining input from people who work in the schools and creating opportunities to involve school children in collecting and analyzing data. Ms. Miller-Travis added that EPA was planning to conduct a second round of studies, and the Work Group would like more involvement in the process of identifying schools in that round. She mentioned, in particular, that the Work Group would like to see "fence line schools" and other types of schools that were excluded during the first round added to the second round.

Ms. McKelvey noted that EPA is focusing on monitoring ambient, outdoor air. She acknowledged that there are issues associated with indoor air. She also acknowledged that no schools in tribal communities were on the list. She assured the Council that those issues were being discussed. She reported that upon completion of the initial round of monitoring – which consists of 1 in 6 days of sampling over 60 days – a report of findings and "best practices" would be prepared for the EPA Administrator and "next steps" would be discussed.

Following the presentation, Ms. Yeampierre requested that the Web site information be presented "multi-lingually." She noted that speakers of other languages were under-represented at NEJAC meetings, and expressed concern that they be able to read the Web site information. Ms. McKelvey said that the Frequently Asked Questions (Preguntas y Respuestas) Web page was presented in English and Spanish.

9.0 Presentation on Variances for Small Drinking Water Systems

Ms. Pam Barr, Director of Standards and Risk Management Division, Office of Groundwater and Drinking Water and her colleagues Mr. Dan Olson and Mr. Eric Burneson presented an overview of EPA's small drinking water system policy and solicited input from the NEJAC.

Mr. Olson, who was described as the "technical expert" on this issue, delivered a presentation to the Council (see Attachment D). He stated that the primary reason for their attendance was to gather feedback from the NEJAC on the following questions:

1. Does the NEJAC have advice or recommendations on integrating environmental justice considerations into EPA's small drinking water system?
2. Should EPA revise its current small system variance policy to provide more equitable consideration of small system customers?

3. Should EPA consider additional changes to drinking water policies to provide more equitable consideration of small system customers?

Mr. Olson defined “small drinking water systems” as those that serve less than 10,000 people. He reported that 92% of drinking water systems are small, but 82% of people nationwide are served by large systems. He further noted that most of the small drinking water systems in this country do not have full-time operators.

He explained that the Safe Drinking Water Act’s small system variance provision would allow the use of technology that does not achieve compliance with drinking water standards. The technology, however, would achieve a maximum contaminant reduction that is affordable and protective of public health. Mr. Olson added that small system variances are not allowed for microbial contaminants, and are only available if the Agency determines that compliance technology is not affordable for small systems. Additionally, states are required to review the terms and conditions of small system variances every 5 years.

Mr. Olson reported that EPA had consulted with the National Drinking Water Advisory Council and the Science Advisory Board, and released the proposed policy for public review. He said that the National Drinking Water Advisory Council commented that the provision was “ethically troublesome,” and greater than 95% of the 12,000 individuals who submitted public comments were opposed to the proposed policy. The primary public concerns were related to environmental justice issues; perceived “undercutting of efforts to enforce the Maximum Contaminant Level;” the undermining of Superfund, RCRA, and other regulatory programs; and the possibility that risk assessments would be reopened for scrutiny.

In addition to the public comment period during which written remarks were received, EPA held three outreach meetings in May and June 2009. Mr. Lee provided opening remarks during the May 20 meeting, the National Drinking Water Advisory Council was consulted at the May 27 meeting, and the June 26 meeting included a dialogue with states.

Mr. Lee expressed appreciation for the efforts of Ms. Barr, Mr. Olson, and Mr. Burneson; and noted that they had requested an audience with the Council to discuss this issue.

Highlights of the follow-up discussion included:

- The need for more legends on the maps in the slide presentation.
- Ms. Barr clarified that the small system variance policy is a provision in this Safe Drinking Water Act that had never been used. Mr. Lee clarified that Ms. Barr and her colleagues were present to garner feedback from the NEJAC, not to advocate. They were required by legislation to consider a variance. He acknowledged that many groups had already provided input to this issue but also sought the NEJAC’s advice.
- Mr. Burneson noted that the issue of affordability could be viewed in two ways: from the standpoint of whether a community can afford to technologically comply with drinking water standards and based on individual households. He stated the challenge was related to statutory constraint, where EPA could not tell a community how to charge their customers. He added that states needed to make system wide determinations.
- Mr. Kelley expressed concern about deviating from health protective standards and urged for considering the medical costs resulting from people drinking contaminated water. He expressed disappointment that in 2009, places still existed in the United States that continue to deal with the issue of unsafe water.
- Mr. Barr clarified that the variance would only apply to future or revised existing EPA rules. This would include perchlorate and about 90 chemicals that may be regulated.
- Mr. Aragon said he would oppose a variance and expressed hope that the Agency would push for the highest standard possible in all cases. He presented Browning, Montana, as an example of a city that has been on a “boil order” for almost 7 years. He noted that boiling would not make a difference when the water is contaminated with uranium, which is found on his own reservation from historic mining activities. Mr. Aragon added that EPA should explore ways to better train and retain Operation and Maintenance workers at water treatment plants on tribal lands.

- Mr. Wilson expressed his opposition to the variance because it creates a question of safety. He also requested that data be presented in the context of environmental justice, for example, by including information on the demographics of the communities surrounding small water systems. He cautioned against creating another level of “marginalized communities” around cities. Ms. Yeampierre echoed Mr. Wilson’s request for the presentation of the data in an environmental justice context.
- To better understand the provision, Mr. Holmes requested the development of scenarios that would potentially require small drinking water system variances (such as effects of climate change, age of existing water infrastructure, crisis situations, and other factors). Ms. Yeampierre agreed, adding that projected scenarios of potential effects of climate change on communities 10 to 30 years into the future, given the age of water infrastructure, would be useful.
- Ms. Fisher cautioned against assuming that major city systems are accessible to everyone in the city. She presented the example of New Orleans, which has a sewer system that is not accessible by those who live outside of the levy protection system.
- Mr. Rosenthal noted that payments from water bills represent the largest source of income in some small towns. He stressed the need to balance environmental protection and the survival of small towns. He suggested helping small jurisdictions understand the risks and allowing them to make informed decisions.
- Mr. Ridgway acknowledged the challenge of the Council in engaging in meaningful deliberation over such a complicated topic on a fast track. He recognized the previous input from the National Drinking Water Advisory Council and others and proposed that the NEJAC recommend that the EPA Administrator not support the small system variance provision based on practical and ethical issues.

On behalf of the NEJAC, Mr. Ridgway and several others on the Council drafted a letter to the EPA Administrator advising EPA to avoid variances regarding the Agency’s Small Drinking Water System Policy. The Executive Council unanimously approved the letter.

10.0 Presentation on the Definition of Solid Waste Rule

Ms. Maria Parisi Vickers, Deputy Director, EPA Office of Resource Conservation and Recovery, asked for input from the NEJAC and its Work Groups on issues to consider as OSWER develops its environmental justice analysis approach. Ms. Vickers noted that ORCR reports directly to OSWER Assistant Administrator Mathy Stanislaus and, as part of the disproportionate impact analysis that Mr. Stanislaus had committed OSWER to doing, the office will be soliciting input from all stakeholders potentially affected by the Definition of Solid Waste Rule in the rule-making process.

Ms. Vernice Miller-Travis, Commissioner, Maryland Commission on Environmental Justice and Sustainable Communities, noted that she had served on the NEJAC for many years, during which she chaired the Subcommittee on Waste and Facility Siting. She expressed appreciation for the accomplishments of that subcommittee, which helped shape and expand the Agency’s approach of addressing hazardous waste and solid waste issues. She noted, however, that she was surprised to hear from EarthJustice, formally the Sierra Club Legal Defense Fund, that EPA was undertaking the Definition of Solid Waste Rule. She stated that the Rule involved less oversight, inspection and reporting requirements, which went against the deep historic underpinnings of the environmental justice movement. She expressed her disappointment that the issue of “recycled hazardous waste” was not being taken seriously, especially in light of the events in Warren County, North Carolina, which involved companies illegally depositing oil on the side of a highway; and the creation of a hazardous waste landfill in that same county. She referred the Council to the July 5, 2009, opinion-editorial piece by Dr. Robert Bullard, “Environmental Justice Leaders Call on Obama Administration to Roll Back Bush-Era Waste Rules” and noted that hazardous waste recycling was a factor in almost every case of environmental justice struggle around the country involving disparate effects to communities.

She asserted that Executive Order 12898 calls for an environmental justice review and analysis of rules and regulations promulgated by EPA to assess whether they would have adverse impacts on minority

populations. She noted that there had not been any environmental justice analysis done in this case. Ms. Miller-Travis urged EPA and the NEJAC to revisit Executive Order 12898, "line by line."

Ms. Mooney referred to three studies: (1) damage case study, (2) best practices study, and (3) cost analysis. The studies identified 600 facilities that could potentially be used to recycle hazardous waste, and that list was later reduced to 218 facilities, she explained. The studies found that residuals of hazardous waste recycling were not managed well. The rule was published in October 2008. On January 29, 2009, the Sierra Club submitted an administrative petition requesting that EPA withdraw the rule. EPA held a public meeting on June 30, 2009, which generated a responses-to-comments document that was 3,500 pages long. Ms. Mooney pointed out that EPA learned from the public involvement session and she committed to having more frequent public dialogues.

The follow-up discussion included several items:

- Mr. Holmes recalled his experience as a principal deputy working on RCRA in the 1990s and dealing with the challenge of not enough permit writers.
- Ms. Prasad cautioned that adequate time be taken when deciding how to proceed on this issue, as the ultimate process would likely be viewed as a "sacred cow" for rest of the agency to follow. He stated that there are many issues to consider when using GIS data, including limitations.
- Ms. Wilson urged EPA to consider the volume of non-hazardous waste in North Carolina and other areas affected by CAFOs and agribusiness.
- Mr. Aragon urged EPA to protect tribal lands and recognize that these lands have become a "haven" for incinerators and hazardous waste sites due to the lack of protection under federal rule. He noted that most tribes do not have regulations to protect themselves. Ms. Miller-Travis recognized that the data is clear that there are communities like reservations that are disproportionately affected by waste. Mr. Lee acknowledged the complexities associated with dealing with this issue but noted substantial progress and milestone already made in the past year. He referred to the disproportionate impact analysis that will be conducted with respect to environmental justice, which will incorporate considerations of the economic status of affected communities.
- Mr. Lee concurred with Ms. Miller-Travis' call for EPA and the NEJAC to review Executive Order 12898.
- Ms. Yeampierre encouraged Ms. Enderle to coordinate with community-based organizations like hers that also have GIS capabilities, in the spirit of collaboration and information sharing. She also acknowledged the commitment and efforts of "unsung heroes" like Ms. Vickers.

11.0 Urban Waters Initiative

Ms. Ann Codrington, EPA Office of Water, introduced EPA's new Urban Waters Initiative during a presentation to the Council (see Attachment E). Ms. Codrington noted that EPA Administrator Jackson had charged the Agency to develop this initiative to "engage communities, particularly disadvantaged communities, in revitalizing their urban waters and the surrounding land." She pointed out that EPA's proposed "urban waters vision" included the following four elements:

1. Valuing urban waterways as centerpieces of urban revival
2. Ensuring access to the water for all people
3. Empowering community members
4. Establishing partnerships among federal, state and local governments; academic institutions; businesses; and non-profit organizations

Ms. Codrington described EPA's "urban waters approach" in terms of three overlapping circles: (1) supporting place-based successes through technical assistance from groups like AmeriCorps and other resources like local community organizations; (2) multi-media communication, such as multilingual and social networking approaches to campaigning; and (3) strengthening EPA's urban capability, in terms of leveraging resources and working across programs.

Ms. Codrington ended her presentation by asking for input from the NEJAC on existing urban waters

successes, NEJAC members' expectations of the initiative, ways in which the NEJAC can support the effort, and the Council's message to the EPA Administrator.

The discussion following Ms. Codrington's presentation included the following:

- Ms. Salkin urged for the development of strategies to ensure economic sustainability around revitalized urban water areas and expressed concern that affected communities not be "pushed out" due to higher costs of living.
- Ms. Salkin suggested that EPA explore opportunities through the National Oceanic and Atmospheric Administration (NOAA) Coastal Zone Management Program (CZMP) and the Federal Emergency Management Agency (FEMA) Stafford Disaster Relief and Emergency Assistance Act, which provide funding for States and communities to develop local waterway plans and disaster mitigation plans, respectively, to ensure that environmental justice issues are considered in the local planning process.
- Ms. Salkin suggested that EPA explore potential partnerships with developers of offshore wind farms and national watershed organizations (such as River Keepers) for opportunities in the green economy sector, as well as opportunities to involve youth.
- Ms. Fisher noted the many success stories of a partnership called Groundwork USA, which is a network of non-profit environmental businesses that receives support from the National Park Service and EPA. She added that coordination should occur with the Department of Education so that the urban waters approach can be incorporated into school curricula.
- Ms. Fisher suggested looking at waterways for potential green job opportunities. She noted that green economy discussions are currently focused on energy issues, and hydrokinetic energy should be considered as well.
- Ms. Fisher requested consideration of the impacts of water pollution from industry and agriculture, in the Midwest, and how it relates to hypoxic, or low oxygen, conditions in the lower reaches of the Mississippi River and the Gulf of Mexico. She asserted that hypoxic conditions may disproportionately affect low-income and minority communities in the Gulf Coast region.
- Ms. Yeampierre noted the challenges involved in turning waterways into esplanades and recreational paths. She stressed the importance of maintaining the culture of the communities – for example, a multicultural pier where vendors can sell dim sum and tacos; with areas where people can play dominos. She asked that waterway restoration efforts be focused on maintaining multiple uses that are essential for the economic sustainability for members of the immediate community.
- Ms. Briggum suggested forming partnerships with groups engaged in beautification, such as the Wildlife Habitat Council, which use native vegetation. She noted opportunities for community involvement. She also referred to U.S. Building Council and Leadership in Energy and Environmental Design (LEED) certifications as ways to improve the aesthetics and sustainability of waterfront businesses.
- Mr. Marsh suggested considering ideas on restoring urban areas in ways to support a lifestyle similar to those of indigenous communities. He presented the example of using or recycling rainwater that falls in the neighborhood to minimize stress on outside supplies.
- Mr. Kelley urged EPA to include underutilized or abandoned waterways in this initiative, which he said can also be an opportunity to create jobs for young people, teach respect for natural resources and unite communities. Mr. Holmes agreed, citing his experience with the Anacostia waterfront in Washington, D.C., where he learned that when brush adjacent to waterways was cleared, drug dealers moved away and people returned.
- Mr. Lee stated that EPA is also engaging with the Smart Growth Network (see Exhibit 11) on matters pertaining to environmental justice and equitable development; and the Agency is entering into a partnership with Department of Transportation and the Department of Housing and Urban Development focused on sustainable communities.

Exhibit 11

Smart Growth Network

In 1996, EPA joined with several nonprofit and government organizations to form the Smart Growth Network. The purpose of the Network is to provide a storehouse of knowledge about smart growth principles, facilitating the sharing of best practices and acting as a catalyst for implementing ideas. The Network was formed in response to increasing community concerns about the need for new approaches to growth that would boost the economy, protect the environment and enhance community vitality. The Network's partners include environmental groups, historic preservation organizations, professional organizations, developers, real estate interests, and local and state governments.

Source: www.smartgrowth.org

12.0 Emerging Issues

As a scoping exercise, the NEJAC discussed issues that require increased attention at future meetings, including interagency coordination on environmental justice and climate justice issues. The highlights of these discussions regarding emerging issues are presented below

12.1 Interagency Coordination Around Environmental Justice

Ms. Yeampierre suggested that the NEJAC send out letters to multiple agencies to introduce the Executive Council and let the agencies know that the NEJAC is available to provide guidance and advice. She recommended reaching out to the Department of Labor, the Department of Housing and Urban Development, and social services agencies.

Mr. Rosenthal noted that Executive Order 12898 gives the NEJAC broad authority to work with other Federal agencies through EPA; and it gives EPA the authority to review other agencies' environmental justice plans and conduct assessments and evaluations of their environmental justice programs. He noted that some agencies had not revisited their environmental justice strategies since 1995, and he advised EPA to examine those plans.

Mr. Holmes suggested that the Council identify five environmental justice problems in the water sector that cannot be resolved without interagency cooperation and request presentations from stakeholder agencies on those five issues. He said that by doing that, the various agencies would "feel ownership of the issues" and have an opportunity to work with each other to address the issues.

Ms. Briggum noted that adding some "star power" to the conversation could encourage more people from other agencies to participate. She presented the example of EPA Administrator Jackson, Secretary Solis, Ms. Sutley, and others who may be able to boost interest in environmental justice concerns.

12.2 Climate Justice and Green Jobs

Mr. Aragon noted the health risks associated with "brownouts" in disadvantaged communities that cannot afford power. He said this was an issue that deserves greater focus.

Ms. Fisher called for collaborative efforts to examine the affects of sea level rise on coastal communities.

Ms. Yeampierre expressed concern about the life cycle of so-called "green chemicals" and the unintended consequences of potentially harmful by-products.

Mr. Kelley stressed the importance of educating community members on what they can do individually to help reduce carbon emissions.

Mr. Wilson recommended that the Council create a NEJAC work group on concentrated animal feeding operations (CAFOs; see Exhibit 12).

Exhibit 12

Concentrated Animal Feeding Operations

Animal Feeding Operations (AFOs) are agricultural operations where animals are kept and raised in confined situations. AFOs congregate animals, feed, manure and urine, dead animals, and production operations on a small land area. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures, fields, or on rangeland.

Concentrated Animal Feeding Operations (CAFOs) are AFOs that meet certain EPA criteria. CAFOs make up approximately 15 percent of total AFOs.

Source: www.epa.gov/region7/water/cafo/index.htm

13.0 Council Business

As part of the Executive Council Business Meeting, members discussed the proposed draft letter to EPA Administrator Jackson regarding small drinking water system variances; proposed revisions to the Goods Movement Report; updates on the Council's liaisons to the Children's Health Protection Advisory Committee Task Force on School Siting Guidelines and the EPA Tribal Operations Committee; the White House Council on Environmental Quality's recent meeting on Environmental Justice; and the next NEJAC meeting.

13.1 Letter to the EPA Administrator on Small Drinking Water System Variances

After some discussion of the wording of the draft letter, the Council agreed to submit to EPA Administrator Jackson the approved letter in which the NEJAC advises EPA to avoid variances regarding the Agency's Small Drinking Water System Policy.

13.2 Revisions to Goods Movement Report

After discussion on revisions to Recommendations 19 and 32, the Council unanimously agreed to adopt the Goods Movement Report and submit it to EPA Administrator Jackson.

13.3 NEJAC Liaisons to Other Committees

Ms. Yeampierre and Mr. Aragon provided updates on their efforts as NEJAC liaisons to EPA's Children's Health Protection Advisory Committee Task Force on School Siting Guidelines, and the Tribal Operations Committee, respectively.

Ms. Yeampierre reported that the Children's Health Protection Advisory Committee Task Force on School Siting Guidelines met for the first time on Monday, July 20, 2009. The objective of the meeting was to review the purpose and vision of EPA's draft guidelines for siting school facilities; discuss EPA's charge for the task force and the roles of members; review the process of developing guidelines; and discuss the initial perspectives of members. She stated that the task force consists of more than 25 people representing a variety of stakeholder groups, from charter school principals to representatives of education advocacy groups. She indicated that she had assigned someone from her office to review the guidelines and develop a policy analysis from an environmental justice perspective. She requested feedback from the NEJAC on concerns and priority issues that should be considered.

Ms. Aragon reported that the Tribal Operations Committee, formed in 1996, is an advisory group to the American Indian Environmental Office. He indicated that the American Indian Environmental Office was formerly under the EPA Office of Water but that Administrator Jackson recently moved it to the Office of

International Affairs, in recognition that tribes are sovereign nations. Mr. Aragon also noted that the EPA Administrator had just officially reaffirmed the 1984 EPA Indian Policy (see Exhibit 13) on the 25th anniversary of the policy.

Exhibit 13**1984 EPA Indian Policy**

The 1984 EPA Indian Policy outlines nine principles to guide the Agency in dealing with tribal governments and in responding to the problems of environmental management on Indian Lands in order to protect human health and the environment. The nine principles can be downloaded from the following EPA Web site: www.epa.gov/tribalportal/pdf/indian-policy-84.pdf.

Source: www.epa.gov/tribalportal/basicinfo/epa-policies.htm

13.4 White House Council on Environmental Quality Meeting

Mr. Lee discussed the meeting that occurred in May 2009 to allow various environmental justice leaders an opportunity to meet with the Obama Administration's transition team, including Secretary of Labor Ms. Hilda Solis, Ms. Nancy Sutley, Chair of the White House Council on Environmental Quality; and Mr. Van Jones, Special Advisor for Green Jobs, Enterprise and Innovation on the Council on Environmental Quality. Mr. Yeampierre added that it was a "historic meeting" that was facilitated by the Environmental Justice Leadership Forum on Climate Change (see Exhibit 14). She reported that topics of discussion included co-pollutants, cap-and-trade and green jobs.

Ms. Catron commented that she only received notice about the meeting the previous Friday and would have appreciated more advanced notice. Ms. Yeampierre noted that much organizing was done with little or no resources, with e-mails as the primary means of reaching other leaders around the country. She urged people to respond to e-mails right away due to the lack of staff and resources to follow up.

Exhibit 14**Environmental Justice Leadership Forum on Climate Change**

The Environmental Justice Leadership Forum on Climate Change is working to mobilize and facilitate a national working group of environmental justice advocates who will interact with identified scientists, academics and representatives of mainstream environmental groups to inform state and federal, political and legislative action that will result in the development of policies and mechanisms that equitably reduce carbon emissions in all communities. The Forum is currently comprised of 35 member organizations.

Source: www.weact.org/Coalitions/EJLeadershipForumonClimateChange/tabid/331/Default.aspx

13.5 Next NEJAC Meeting

The Council discussed the potential venues and dates of the next in-person NEJAC meeting, including coordinating it with the air toxics workshop in New Orleans in late January 2010. That workshop will be sponsored by EPA OAQPS. New Orleans is also close to affected communities like Port Arthur, Texas, and Mossville, Louisiana, as well as areas where Native American tribal groups are located. Council members requested a schedule of upcoming meetings to allow EPA and members to anticipate them, as well as to place indirect pressure on EPA staff to respond to outstanding recommendations and requests.

Mr. Hilton recommended Skype as a possible tool for online NEJAC meetings. He said Skype was an example way to reach a larger audience by "setting up a large room with a big screen for community

members to address the Council” instead of requiring people to travel to the meetings. Ms. Robinson said she would discuss with the Federal Advisory Committee management oversight group the legal implications of using social networking technology (such as Skype or Twitter) at NEJAC meetings.

14.0 Closing Statements

The 3-day meeting concluded with closing remarks from Ms. Robinson, Mr. Lee, Ms. Yeampierre, Mr. Ridgway and other members of the Council, during which appreciation was expressed for the hard work and diligence of all Council members and those who helped to make this 26th meeting of the NEJAC a successful and memorable one.

Chapter 2

Summary of Public Comment Period

1.0 Introduction

On Tuesday, July 21, 2009, the National Environmental Justice Advisory Council (NEJAC) held a public comment period to directly engage concerned citizens and members of affected communities. The public comment period convened at 6:30 p.m. and continued until 10:30 p.m. to allow time for remarks from everyone who registered and chose to speak. Spoken comments were received from 12 individuals hailing from 10 states across the nation, from California to Louisiana to New York.

The public comment period provides an opportunity for the NEJAC to interact directly with concerned citizens. Following each speaker's testimony, NEJAC members engaged the speaker with additional questions, comments and suggestions. When applicable, NEJAC members provided more information on the tools and strategies available for community organizations. Speakers presented information on topics ranging from medical science to social science, in the following main categories: (1) recent medical research on the link between environmental exposures and health conditions that affect low-income, minority and tribal communities; (2) geographic data management issues; (3) outreach through university collaborations, community engagement and youth involvement in environmental justice initiatives; (4) confined animal feed operations; (5) toxic emissions from petrochemical facilities; and (6) specific economic, health, cultural and social concerns of affected communities. This chapter summarizes the spoken testimony offered during the public comment period, as well as the discussion among NEJAC members in response to the comments.

In addition to the 12 individuals who provided spoken comments, 25 individuals provided written comments. These people were not able to attend the meeting but requested that their concerns be incorporated into the official meeting record. The majority of the written comments were received from Gulf Coast residents concerned about ecological and environmental effects in communities experiencing multiple sources of pollution and collapsing ecosystems.

Section 2.0 below summarizes the public comments and the follow-up exchanges between the speakers and NEJAC members.

2.0 Public Comment Period on July 21, 2009

During the public comment period, 12 individuals offered verbal remarks. Comments are summarized below in the order in which they were offered.

2.1 Stanley Caress, PhD, Faculty Advisor for the Environmental Studies Program, University of West Georgia

Dr. Stanley Caress presented recent research indicating that about 3 percent of the U.S. population has a medical condition resulting from environmental exposure. Research he has conducted in the past 5 years (in collaboration with Professor Anne Steinemann of the University of Washington, Seattle) has consistently demonstrated a significant link between chronic low-level exposure or a massive acute exposure to toxic chemicals and the large number of individuals who suffer from conditions such as "occupational asthma," "multiple chemical sensitivities," and other chronic diseases. Results of Dr. Caress's research have been published in the following peer-reviewed scientific journals: *American Journal of Public Health*, *Environmental Health Perspectives*, and *Toxicology and Industrial Health*. Dr. Caress shared copies of his latest research article with the Executive Council ("Asthma and Chemical

Hypersensitivity: Prevalence, Etiology, and Age of Onset” published in *Toxicology and Industrial Health*, Volume 25, Number 1, Pages 71 to 78 [2009]).

Dr. Caress suggested that the link between health conditions and environmental exposures is a much larger problem than has been acknowledged previously. He indicated that prior to the three studies he has been involved with, there were no prior studies of the prevalence of environmentally-related health conditions. Dr. Caress recalled that in the 1990s, research on the links between environmental exposures and health risks received some funding and attention from the Federal government, however, in recent years support and interest have diminished. Citing the debilitating quality of life for many individuals, costs to the community and the strain on the health care system these diseases cause, Dr. Caress advocated for renewed Federal support for research into the nexus between environmental exposures and health risks.

Follow-up questions and comments from the NEJAC members focused on the following issues:

“Perhaps 3 percent of the American population is suffering from some type of medical condition resulting from toxic exposure.”

– Dr. Stanley Caress, University of West Georgia

- Mr. Omega Wilson asked if the studies revealed any link between environmental conditions and developmental problems and educational difficulties – specifically, the effect of environmental exposures on the learning curve, behavioral problems, and children’s growth and development.

Dr. Caress responded that there are many ways people can contract environmental illnesses. Of particular concern is the recent significant rise in childhood asthma. Dr. Caress indicated that the Center for Disease Control has also investigated the increase in childhood asthma, but there appears to be no single cause or easy answer. Dr. Caress expressed concern about common low-level exposures (such as formaldehyde and benzene in new carpeting and new building materials in households with young families and small children). He said that cumulatively, these low-level exposures can cause developmental problems. While there is no hard evidence, he continued, some in the field believe that the rise in autism may result from toxic exposures in typical living environments. Dr. Caress indicated that scientific evidence may eventually identify causal links between environmental exposures and developmental difficulties, learning disabilities, social interaction and other problems in children.

- Mr. Chris Holmes asked how the research findings were shared with regulators like EPA, the Occupational Safety and Health Administration (OSHA), and the National Institute of Safety and Health (NIOSH), and if Dr. Caress had any way of knowing whether his research was being considered by policymakers.

Dr. Caress responded that, as with most academic research, the normal process is to go through the peer review process to publish research articles in scientific journals. During the peer-review process, various experts in the field review the work and confirm that proper methodology was used, research was conducted properly and the data are representative of the problem. After an article is published, it becomes part of the literature that regulators review when making their recommendations.

- Mr. John Ridgway asked if the study made a distinction between common household products and environmental exposures resulting from industrial pollution.

Dr. Caress responded that his research was primarily a prevalence study to determine how widespread the problem is. Many other studies examine different pathways for the illness, but that topic goes beyond the scope of his research. Dr. Caress stated that the purpose of his research was to demonstrate the extent of the problem, which is much larger than normally recognized and, therefore, deserves additional consideration by the Federal government.

2.2 Ms. Diane Yarbrow Swift, Center for Equitable Education, Kansas City, Missouri

Ms. Swift requested increased funding for youth programs that support environmental justice and education, especially in underserved communities. Ms. Swift began her testimony by citing the documentary film *Two Million Minutes*, funded by the Bill and Melinda Gates Foundation (see text box below). She pointed out that high school education is crucial in preparing for a productive career and, therefore, she advocated for increased funding and improved access to information to prepare low-income, minority and tribal youth for successful careers in the new “knowledge economy.”

Ms. Swift specifically requested that EPA provide additional funding for programs that target youth ages 12 to 16. She explained that focusing on this age group will allow youth to begin making career choices and will afford opportunities for youth to become familiar with environmental justice. Ms. Swift contended that we should not wait until our children are 18 to discuss career choices; if they are exposed to environmental issues earlier in their adolescence, they will realize a greater awareness of their communities and have a greater range of meaningful career choices.

“Regardless of nationality, as soon as a student completes the 8th grade, the clock starts ticking. From that very moment the child has approximately 2 million minutes until high school graduation. Two million minutes to build their intellectual foundation. Two million minutes to prepare for college and ultimately a career. Two million minutes to go from a teenager to adult. How a student spends their 2 million minutes – in class, at home studying, playing sports, working, sleeping, socializing, or just goofing off – will affect their economic prospects for the rest of their lives.”

-From the documentary film, *Two Million Minutes*

Ms. Swift requested that EPA establish a regional environmental justice council that includes youth members. She also advocated for creation of a new funding model that promotes community-based partnerships and collaborations. Ms. Swift cited the difficulty smaller organizations have when competing for grants with larger, more established organizations. Larger organizations, she said, can afford to hire individuals to complete grant applications and manage the grants, which puts smaller, community-based organizations at a disadvantage. Ms. Swift suggested that a new model of funding is needed to ensure equal access to grants for underserved communities.

Follow-up questions and comments from the NEJAC members focused on the following issues:

- Ms. Jolene Catron concurred with Ms. Swift’s contention that finding funding sources can be difficult for small, community-based organizations. She applauded Ms. Swift’s organization’s efforts to involve youth in community action and environmental education. Ms. Catron also agreed that the youth of the community need to be at the table for discussions of environmental justice and environmental concerns
- Mr. Hilton Kelley suggested that Ms. Swift seek out foundations that could potentially fund specific projects, such as educational initiatives and programs involving renewable energies. As examples, Mr. Kelly mentioned the Norman Foundation and the Seal Family Foundation, both of which, he said, are very active in supporting environmental justice work. He added that federal agencies have quite a few programs that support youth involvement.
- Mr. John Ridgway asked if Ms. Swift had discussed her goals and initiatives with personnel at EPA Region 7 and if there were opportunities for youth involvement in the Region’s environmental justice initiatives.

Ms. Swift indicated that Region 7 has been very supportive, especially Ms. Monica Espinosa and Ms. Althea Moses.

- Ms. Yeampierre indicated that her organization is multi-generational, and youth serve in a variety of capacities, including as key staff and members of the board. She said that she has observed a

difference between the way foundations fund environmental justice and the way government agencies do. In particular, she explained that foundations may focus on organizing youth to address environmental justice, while government grants focus on youth development. She offered encouragement and suggested that it might be helpful for Ms. Swift to consider these different types of “empowerment models” when developing programs and initiatives.

2.3 Ms. Beryl Thurman, North Shore Waterfront Conservancy of Staten Island, New York

Ms. Thurman requested assistance and guidance to address environmental contamination affecting minority and low-income communities on the north shore of New York’s Staten Island. Ms. Thurman stated that the North Shore Waterfront Conservancy of Staten Island is the only organization advocating for environmental justice on Staten Island. She indicated that various state and federal agencies have suggested different approaches to and requirements for remediation, and some have suggested that the identification of contaminated sites would result in a “stigma” for the community.

Continuing her remarks, Ms. Thurman said that EPA recently identified lead contamination at a site in Port Richmond and the Agency is investigating a former Manhattan Project site nearby. In addition, she is concerned about the quality of impaired waterways adjacent to low-income and minority communities. Ms. Thurman indicated that there seems to be some concern among local and state agencies that the area would suffer economically if areas are labeled as “Superfund” communities. She said that the stigma already exists, and that she would welcome help from the Superfund program. As she put it, “We really don’t care what you call it. All we want is for it to be clean – so that it is safe for the people who live there.”

Ms. Thurman also indicated that many of the people in the most affected communities might not technically qualify as “low-income” because they have multiple family members contributing to the household income. Although they do not make enough money to be considered middle class, she said, the median household income does not qualify the community to be considered “distressed.” As a result, the working class and the working poor often do not qualify for assistance when confronting environmental justice issues.

Follow-up questions and comments from the NEJAC members focused on the following issues:

- Mr. Chuck Barlow suggested that some industry people may want to avoid the Superfund designation, and instead, they prefer to clean up the site before it gets to the stage of enforcement where it is considered a Superfund site. Mr. Barlow indicated that the industry preference is a valid approach but it may have been misunderstood or misrepresented by others. Nevertheless, he agreed that such designations have little relevance to a community that just wants the site to be addressed properly. Mr. Barlow also asked if Ms. Thurman was aware of other community groups working on environmental justice issues.

Ms. Thurman replied that North Shore Waterfront Conservancy of Staten Island is the only group she knows of that is working on these issues. She added that she was unaware of any industry involvement other than the real estate industry, and that real estate developers and their contractors have repeatedly pressed her with questions such as, “Aren’t you afraid your property values will go down?” She indicated that real estate values are already significantly depressed near contaminated sites and impaired waterways, and she believes local real estate developers are only interested in gentrification, not the concerns of the community.

- Ms. Yeampierre indicated that gentrification has become a major environmental justice issue because after areas are cleaned up and transformed, commercial and residential redevelopment displaces the members of the originally affected community.
- Dr. Prasad discussed the stigma of “redlining,” which is also called “greenlining,” because that is where jobs, action and resources are needed most. Dr. Prasad also stated that the concerns

voiced by Ms. Thurman should be considered when the Office of Enforcement and Compliance Assurance and the Office of Environmental Justice identify communities of concern.

- Mr. Hilton Kelley asked for clarification regarding who asked the questions about the property values and the possibility of a stigma being placed on the community. He also asked if the city agencies have been involved in or supportive of cleanup.

Ms. Thurman replied that she had been speaking with a representative of the New York State Department of Health. She also stated that although the city has never identified Staten Island as having environmental justice communities, the city uses Staten Island demographic data to receive funding.

Mr. Kelley recommended that Ms. Thurman use the Freedom of Information Act to acquire city funding information to see exactly how the community's demographic data is being used and how federal funding is being spent.

Ms. Thurman responded that her organization had used information obtained under the Freedom of Information Act to get grant funding from the New York Department of Environmental Conservation. The problem of funding, however, is more complex because local elected officials have indicated that Staten Island did not have as many environmental problems as other boroughs of New York City. In order to make more funding available, Ms. Thurman stated that she would like to have 5.2 miles of waterfront on the North Shore or Staten Island, from St. George to Arlington, identified as a distressed area.

- Mr. Lang Marsh commented on the political resistance to having the area considered for distressed area status and asked if there are other tools available that would help make the case to local officials. He also asked what kinds of things Ms. Thurman would recommend that NEJAC develop to assist communities in educating and engaging local officials.

Ms. Thurman replied that she believed all the local officials are aware of the problem, but that they do not want to acknowledge it publicly. Ms. Thurman stated that she had attended the State of the Borough address, and the borough President never discussed the North Shore, except to mention that two businesses were bringing 200 union jobs to the area. She added that, "unfortunately, minority and low-income youth are not likely to have the skills to be eligible for those jobs."

- Mr. William Harper said his mother was from Staten Island and that he remembered visiting Port Richmond in the 1950s and 1960s, when it was a very mixed neighborhood. As often happens, he said, when other people moved away, people of color stayed. Mr. Harper recalled that even as a young person he was aware of the many factories in the area, and he asked Ms. Thurman how long she has been aware of specific environmental issues, such as lead contamination.

Ms. Thurman replied that she moved to Port Richmond in 1997 and served as Vice President and later President of the Port Richmond Civic Association. Over time, more polluting businesses were allowed to cluster in the area despite the community's objections. For example, variances would be granted to allow additional automobile shops to be located within the community where a dozen were already operating, along with numerous social service agencies dealing with substance abuse, homelessness and other social issues. In 2005 and 2006, a grant from the New York Department of Environmental Conservation funded the research necessary to identify 21 potentially contaminated sites. In 2008, the research was completed and the results published in a booklet. Ms. Thurman noted that, at that point, there was no denying the problem. The community could make a compelling argument to stop locating more sources of pollution in their neighborhoods.

2.4 Mr. Michael Jacoby, Community Member, Seven Valleys, PA

Mr. Michael Jacoby discussed problems with geographic data in government environmental databases. Mr. Jacoby indicated that he was grateful that EPA Administrator Lisa Jackson had signed the Toxic Release Inventory (TRI) Burden Reduction Rule, indicating that the rule is key to solving issues related to data accuracy and data management. He said that site location information in environmental databases was often inaccurate or incomplete. He added that, for example, the location of some facilities may be “10 to 20 miles off,” and some facilities may not have any mapping information at all. He urged the NEJAC to advocate for an overhaul of the databases because the public will not have any faith in EPA if it cannot provide accurate information. Mr. Jacoby further commented that inaccurate data is also a public health and safety issue, particularly because the public cannot obtain accurate information on facilities that may be polluting their communities [and, therefore, they can not appropriately respond]. Also, inaccurate data poses problems for first responders who need current, accurate data to properly identify potential hazards. Mr. Jacoby asked who at EPA is responsible for verifying that data is accurate before it is made available to the public. He also suggested that he could set up a computer program that could address these data issues.

Follow-up questions and comments from the NEJAC members focused on the following issues:

- Mr. Omega Wilson commented that community-based organizations have been aware of these data issues for many years. He further stated that his work with the Goods Movement Work Group has raised serious questions about potentially underestimating environmental impacts, because many historic sites known to the communities are not included in databases. He asked Mr. Jacoby if his approach to data management would address data that is “not yet classified as data” – that is, abandoned mills, underground storage tanks, old dump sites and other environmental hazards that local agencies do not recognize as existing in low-income and minority communities.

Mr. Jacoby indicated that the real problem is that many agencies have databases and many are exempt from reporting to other agencies. For example, the U.S. Department of Agriculture may know the locations of bulk storage tanks that are not regulated by EPA. Other problems involve the incongruity between local knowledge and data entry that occurs 3,000 miles away. Mr. Jacoby stated that an integrated database should be developed to have a broad enough scope to address these issues.

- Mr. John Ridgway asked Mr. Jacoby to clarify which EPA database he was referring to or if he was referring to multiple databases.

Mr. Jacoby replied that he was talking about multiple databases.

- Mr. Holmes asked if Mr. Jacoby’s concerns include the major permit databases, such as the Title V operating permits.

Mr. Jacoby replied that he was focusing on problems with geographical information.

2.5 Ms. Dothula Baron-Hall, Rural Empowerment Association for Community Help, Duplin County, North Carolina

Ms. Baron-Hall advocated for greater awareness of the environmental justice issues related to the environmental effects of confined animal feed operations in rural areas. She stated that although Duplin County has about 50,000 residents, it has more than 2 million hogs and 1 million turkeys. Industrial-scale animal production facilities degrade the air, water, soil and quality of life in Duplin County and many counties in North Carolina, she said. Ms. Baron-Hall requested that EPA take a new approach to the problem of confined feed operations because historically, EPA and the North Carolina Department of Environmental Health and Natural Resources have been seen as supporting the industry at the expense

of local communities. Ms. Baron-Hall stated that she is encouraged by the NEJAC and is relieved to know that people who can do something about the problem are willing to help. She further said that her association has worked with other stakeholders to solve the problems caused by hog farming, including Smithfield Foods and its local operations. In addition, they are working with researchers from several universities to discover the causes and solutions to the problem. Ms. Baron-Hall requested that EPA demonstrate its commitment to solving the problems of the community rather than its support for the swine industry.

Follow-up questions and comments from the NEJAC members focused on the following issues:

- Mr. Hilton Kelley asked if Ms. Baron-Hall had sought help from local officials to address her concerns. He also asked if her organization had proposed any solutions to the problem, or if any solutions to the problem had been proposed locally or regionally.

Ms. Baron-Hall replied that many presentations had been made to the county commissioners, but the industry has more clout because it brings a lot of money to the community. She noted that people who have spoken up in the past have been intimidated and threatened, and some officials who support the community are reluctant to take a stand in public. Ms. Baron-Hall added that the State senator and State representative are both contract growers for Smithfield Foods, which further complicates matters.

- Mr. Kelley asked if hydrogen sulfide and other objectionable odors were the most pressing problem the community was experiencing.

Ms. Baron-Hall indicated that while the stench of industrial animal production is a huge air quality problem, other significant issues include surface water and groundwater contamination, including contamination of drinking water wells. She said contaminated drinking water poses a financial burden on low-income populations, especially vulnerable members of the community such as children and the elderly. She added that water quality problems are so significant that when the hog waste entering watersheds in North Carolina flows to the ocean, it contaminates the coastal waters of New England. She stressed that the problems are not just local.

- Ms. Yeampierre applauded Ms. Baron-Hall for being a “community scientist” who has learned what she needs to know to be informed about what is affecting the community.
- Ms. Wynecta Fisher acknowledged the difficult situation because the companies are probably operating within the law of the state. Ms. Fisher suggested trying to find other people in the surrounding communities who could advocate to change state legislation and introduce more protective zoning regulations. Ms. Fisher also suggested pursuing EPA grants for watershed protection.

Ms. Baron-Hall replied that the community is continuing to approach state legislators and work with other groups – like the RiverKeepers and other environmental health groups, including the North Carolina Environmental Justice Network.

- Ms. Briggum suggested that Ms. Baron-Hall meet with the representative from Smithfield Foods who was in attendance at the NEJAC meeting. She also suggested trying to establish a working group with industry representatives to address the issues.

Ms. Baron-Hall replied that they were working toward that end, and that they had recently had a meeting with a representative of Smithfield Foods to begin a collaborative effort to address watershed issues.

- Mr. Holmes clarified that Duplin County is located in the Neuse River basin, which has a huge alliance of academic resources, including Duke University. Mr. Holmes also asked whether regulators had provided Ms. Baron-Hall’s community any tools or guidance on negotiating with Smithfield Foods.

Ms. Baron-Hall said that such information and guidance had not been provided to her. She indicated, however, that she had a good relationship with the State environmental office.

- Mr. Hilton Kelley asked if other methods of storage were available for hog waste.

Ms. Baron-Hall indicated that there has been some research on the storage issue, and there are other less harmful ways to store the waste.

- Mr. John Ridgway discussed how the waste management issues may be regulated by the Safe Drinking Water Act, which he indicated EPA does not address as directly as local health departments do.
- Ms. Henneke encouraged Ms. Baron-Hall to find out who issues the operating permits on the State level and focus efforts on that agency.

2.6 Dr. Howard Wang, Associate Vice President for Student Affairs at California State University at Fullerton and the Community Resource Council

Dr. Howard Wang indicated that he has been involved in many community organizations, including the Fish Contamination and Education Collaborative related to the Palos Verdes Superfund site in EPA Region 9. He pointed out that in June 2009, he traveled to Washington D.C. to receive the Community Excellence in Involvement Award on behalf of the other members of the Community Resource Council.

Dr. Wang offered his comments on behalf of the community group called Citizens Against the Stadium (CAS) and on behalf of the Cities for Communities Preservation, Inc. (CCP, Inc.). CAS is opposed to the project proposed by Majestic Realty and the City of Industry to build a 75,000-seat and 50,000-car parking lot as part of a 3-million-square-foot National Football League (NFL) stadium and entertainment complex in the east end of Southern California's San Gabriel Valley. The area is currently dominated by rolling hills with cow pastures and numerous residential communities.

Dr. Wang stated that although numerous state agencies and municipal jurisdictions have expressed concerns about the stadium project, the developer continues to argue that there is a need for economic growth in the region. The developer's assertion is contrary to academic and economic studies, Dr. Wang said, which find that the project will burden all the neighboring cities with significant traffic impacts, noise, air and light pollution, and other negative impacts that would jeopardize the health, safety and welfare of nearby communities.

Dr. Wang pointed out conceptual and procedural problems with the Environmental Impact Report, which prompted two lawsuits brought by the CCP, Inc., and the City of Walnut. He explained that the lawsuit cites numerous violations of the California Environmental Quality Act, including violations of the planning laws, the Public Records Act, the State Fish and Game Code, and Health and Safety Code. Dr. Wang indicated that he had submitted a compact disc, for distribution to the NEJAC, with detailed information on the lawsuits. He also stated that citizens opposed to the stadium believe this is an environmental justice issue for the following reasons:

- The developer "fast tracked" the environmental review process by capitalizing on the dysfunctional government of the city of Industry, where only about 60 people voted out of a potential pool of 8,000, with only one "no" vote cast on the stadium referendum.
- The developer did not fully disclose that the Environmental Impact Report was based on the 2004 report, and a full review was not completed.
- Local and state officials, including the Mayor of the City of Industry, received campaign contributions from the developer but did not recuse themselves from decisions related to the project.

- The project site is located in a community of Hispanic- and Asian-American residents, many of whom are first-generation immigrants, elderly and non-English speaking. The notification process did not address the multilingual nature of the community. The only materials prepared in both Chinese and English were promotional flyers touting the economic benefits of the project.

Dr. Wang requested EPA involvement to help resolve these issues. For example, he said, EPA could file an “amicus brief” for the citizens’ lawsuit; it could encourage the California Environmental Protection Agency to review this project to identify the project’s negative environmental effects; or it could ask the California State Attorney General to investigate the City of Industry’s relationship with the developer, as well as the City of Walnut’s City Council over possible First Amendment right of free speech violations by the city attorney.

Follow-up questions and comments from the NEJAC members focused on the following issues:

- Mr. Omega Wilson asked if community organizations were able to enumerate potential negative effects on the community that may result from this massive building project.

Dr. Wang replied that local organizations have challenged the lead agency about the supplemental Environmental Impact Report. Dr. Wang recounted how the comments of the California Air Quality Management District detailing air and water impacts were not released until he asked for them. He also stated that the California Public Health Agency did not receive the report and as a result, has not commented. Dr. Wang said that the lawsuit challenges the adequacy of the environmental report and its review.

Mr. Wilson followed up by asking if a legal review process was expected to occur and if the deficiencies in the report will be addressed.

Dr. Wang replied that the judge may rule that a full Environmental Impact Report is required, but “the developer is a billionaire and is confident that the stadium will be built by the end of the year.”

- Ms. Patty Salkin asked if the state Environmental Justice Coordinator had been contacted.

Dr. Wang indicated that he did not know, however, because of his involvement with the Fish Contamination and Education Collaborative, he was able to contact a lawyer in EPA Region 9 and the lawyer suggested that he hire an environmental lawyer in the community. Dr. Wang indicated that they were fortunate to find an attorney who is willing to work at a significantly reduced rate.

Ms. Salkin suggested that Dr. Wang look into getting legal support from law schools in California that have environmental justice litigation clinics, and that the clinics might be able to provide additional resources to support the attorney working on the case. Ms. Salkin also stated that she is the Chair of the *Amicus Curiae* Committee for the American Planning Association. Ms. Salkin stated that the national association does not typically get involved in trial cases; however, the association may have chapters in the project area that could provide support. Ms. Salkin indicated that many of the planners for the larger cities in Northern California are members of the American Institute of Certified Planners, which means that they have to agree to abide by a code of ethics that includes social equity standards. In addition, Ms. Salkin suggested that the attorney working on the case should look into the Fair Campaign Practices Act in California because the state may rule in the community’s favor on that issue, not the environmental issue. Finally, if it seems inevitable that the stadium will be built, Ms. Salkin suggested that the community work to negotiate mitigation and compensation.

Dr. Wang replied that his group has contacted the Golden Gate Law School but that the environmental attorney there did not have the capacity to assist them. He added that local organizations are considering working with other organizations to pursue the ethics issues. As for mitigation and compensation, he said, the City of Diamond Bar has already settled for a one-time cash payment of \$20,000,000, with the possibility of \$700,000 per month based on ticket sales.

He noted that \$20,000,000 may not be sufficient to mitigate traffic at one affected intersection, and that there are about 30 intersections adjacent to the football stadium. Dr. Wang indicated that the City of Walnut had begun negotiations with the developer without informing the public.

Ms. Salkin stated that she could provide the names of attorneys in northern California who may be able to help his organization mount an effective legal challenge.

- Mr. Hilton Kelley asked about the notification process, the outcome of the public comment period, and whether the community had started a petition.

Dr. Wang replied that while public hearings and public meetings were announced, there were problems with notifications for modifications of the Environmental Impact Report. As a result, the City of Diamond Bar filed a citizens' lawsuit arguing that the notification process violated the Ralph M. Brown Act, which guarantees the public's right to attend and participate in meetings of local legislative bodies. Dr. Wang stated that the community was aware of the project and more than 35,000 signatures had been collected on petitions. However, he noted that because it is a predominantly Asian and Hispanic community, many people do not want to get involved for fear of retribution. He acknowledged that the challenge is to engage them. He said his group is planning to distribute more press releases and notices in the local newspapers, and develop a multilingual outreach campaign.

2.7 Richard Gragg, Ph.D., Environmental Sciences Institute at Florida A&M University

Dr. Gragg stated that he is a former NEJAC member and currently serves as Associate Professor and Associate Director of the Environmental Sciences Institute at Florida A&M University, a historically black university and land-grant university. He also directs the Florida Center for Environmental Equity and Justice, and through that activity, he represents the State of Florida on the All-State Environmental Justice Working Group. Dr. Gragg advocated for more university involvement and community engagement in facilitating environmental justice initiatives, especially in light of EPA Administrator Jackson's recommitment to Executive Order 12898 on environmental justice.

Dr. Gragg stated that he is also a member of the Council of Environmental Deans and Directors that represents a consortium of environmental studies and environmental science programs across the country. Dr. Gragg stated his belief that academic consortia and university programs could facilitate coordinated environmental justice initiatives in terms of emerging issues, public participation, collaboration with regional offices and providing technical assistance to communities. He said these entities can and do play a key role in managing and interpreting data on emerging environmental justice issues such as climate change, which is expected to have disproportionate impacts on low-income and minority communities. Dr. Gragg stated that the Council of Environmental Deans and Directors is developing a model for integrating environmental science and public health curriculums at the undergraduate level, and that the council hopes to encourage faculty to include environmental justice issues in their lesson plans.

In summary, Dr. Gragg recommended that EPA develop a coordinated and cooperative agreement with university, academic and private interests to facilitate environmental justice efforts. As an example, Dr. Gragg noted that EPA contracted APEX Direct, Inc., a federally-certified 8(a) small woman- and minority-owned business to provide technical support for the NEJAC meeting.

Mr. John Ridgway thanked Dr. Gragg for his testimony and stated that he wanted to encourage written testimony as well.

2.8 Ms. Christine Bennett, Mossville Environmental Action Now, Louisiana

Ms. Christine Bennett discussed the health consequences endured by the people of Mossville, Louisiana, who, she said, live surrounded by industries that emit toxic chemicals. Ms. Bennett stated that she is disturbed, angry and hurt because while her organization is trying to find solutions, the people of Mossville are dying. In the last 2 months alone, Ms. Bennett stated that she has lost five family members to cancer, her 15-year-old niece has developed a rare cancer and many children suffer from asthma. Ms. Bennett asserted her belief that these health problems are directly related to chemical emissions from the 14 plants that surround the Mossville community, a historic African-American community that existed long before the plants located there, she explained. Ms. Bennett referred the NEJAC members to a report on contamination in Mossville, which indicates that Mossville residents have three times the level of dioxin in the blood compared to the rest of the country. She stated that the residents of Mossville live in constant fear of an industrial accident or release that will spew deadly toxins on the community.

Ms. Bennett asked for immediate assistance from EPA to relocate the community. She pointed out that part of the community has been relocated because of water contamination, but the remaining residents are on the same water system, and they cannot drink it or bathe in it. Ms. Bennett stated that the water cannot be used to wash white clothing because it will discolor the fabric. Ms. Bennett further stated that buying water is too costly and is not an option for most members of the community. She implored the NEJAC to act quickly to relocate the community because children are sick and people are dying.

Follow-up questions and comments from the NEJAC members focused on the following issues:

- Mr. Hilton Kelley stated that he is familiar with the Mossville community and its environmental problems and that he has toured the community with Mrs. Bennett and her husband. Mr. Kelly asked if the local industries are working with the community to relocate residents.

Ms. Bennett responded that they had just met with plant managers from a local facility and that the Chief Executive Officer unexpectedly cancelled a planned meeting. Ms. Bennett also said that the plant managers always want to meet at the plant, and that the community wants them to meet in the community. The plant managers have yet to come to the community, she said. Ms. Bennett added that of the 14 plants in the area, only one manager has indicated he would be willing to meet with them.

- Mr. Omega Wilson expressed dismay about the conditions in Mossville and the lack of coordinated agency response. Mr. Wilson also asked Ms. Bennett to clarify information presented on pages 12 and 14 of the report on contamination in Mossville.
- Ms. Fisher asked for clarification about the relocations that have already occurred.

Ms. Bennett stated that after Condea Vista (one of the local facilities) realized that it had contaminated the water and that local residents in a community near Mossville had to be relocated as soon as possible, the company began to hold community meetings to determine how much the relocation would cost. Some people did not relocate because Condea Vista did not pay them what they believed their property was worth. The people who were relocated were on the same water system that Mossville uses, she said, but Mossville residents were not offered relocation because Condea Vista said the contaminated groundwater plume did not affect Mossville's water.

- Mr. John Ridgway asked Ms. Bennett if she had contacted the EPA Regional Environmental Justice Coordinator for assistance.

Ms. Bennett replied that EPA representatives had communicated with some local residents on the telephone and by email, but none had come to the area to see the situation for themselves.

Mr. Ridgway asked that EPA follow up with Ms. Bennett directly.

- Mr. Lang Marsh thanked Ms. Bennett for her “heartfelt” and “disturbing” testimony. He discussed the relocations that occurred at the Love Canal site, and said he recalled that the State Health Department provided the evidence and the impetus to justify relocating the affected community. He asked Ms. Bennett if the state health agency had been involved to provide assistance or information on the pros and cons of relocation.

Ms. Bennett stated that there has been “a lot of talk and some controversy over the report, which was prepared with agency data,” but no one has provided any assistance [to the residents of Mossville].

2.9 Ms. Michelle Roberts, Campaign and Policy Coordinator with Advocates for Environmental Human Rights

Ms. Roberts offered testimony advocating for everyone’s human right to live in a healthy environment. Ms. Roberts discussed the need for an overarching, systemic change to the “environmental regulatory system.” She stated her belief that environmental regulations are not protective, and changes are needed to make them effective. She discussed the injustice inherent in having to plead to the NEJAC to address environmental issues in economically disadvantaged communities and communities of color. She stated that relocating communities was not the answer to problems that result from inadequate regulations.

Ms. Roberts reminded the NEJAC that many minority communities still suffer from the historic effects of slavery, Jim Crow laws, and generations of segregation and inequities in educational and career opportunities. The continuing injustice, she added, is that these communities are being contaminated by operations that are legal and permitted under the current regulatory framework. Ms. Roberts appealed to the NEJAC to consider the human rights standards required of all member nations in the Organization of American States. She asserted that we should all be aware of how laws and policies are made. This is especially important now, she said, because Congress is debating the proposed cap-and-trade program for carbon dioxide which would allow industry to continue to pollute. Ms. Roberts argued that it should be obvious to all that the system is not working, because after 30 years of regulation, we still have places like Mossville, which is a “child of the regulatory process.” She appealed to NEJAC to advocate for a radical overhaul of the regulatory process.

Follow-up questions and comments from the NEJAC members focused on the following issues:

- Mr. Hilton Kelley stated that he is very familiar with the situation in Mossville, and he is committed to doing whatever is necessary to address the issues involved. Although Mr. Kelly agreed that relocation is not the perfect solution, he pointed out that it is necessary in this case. He encouraged Ms. Roberts to keep fighting for relocation and a fair market price for property.

Ms Roberts agreed that relocation is the appropriate solution for Mossville, but she reiterated her assertion that poor, minority communities should not have to be relocated. She said that, unfortunately, the current process allows these egregious acts to happen. Ms. Roberts reiterated her assertion that a radical overhaul of the regulatory process was needed, and fundamental human rights should be incorporated in the framework.

- Mr. Omega Wilson thanked Ms. Roberts for her clarity and candor. Mr. Wilson then discussed the issue of relocation, which is proposed as a solution to a range of environmental issues. By relocating communities, he said, the environmental impacts merely expand into neighboring communities.

Ms. Roberts said she does not believe relocation is an appropriate solution. She expressed frustration with industry representatives who refuse to meet with affected communities, especially

industry representatives of polluters in Mossville, Louisiana. Ms. Roberts asserted that even if all the affected communities were relocated, the pollution would continue, and contamination would continue to cycle through the ecosystems, with additional effects on more dispersed communities.

2.10 Mr. Devon Hall, Rural Empowerment Association for Community Help, Duplin County, North Carolina

Mr. Hall stated that Duplin County is home to about 53,000 people, and more than 2 million hogs are raised there annually. More than 10 million hogs are raised in North Carolina each year, he added. Mr. Hall stated that some people might think that is the smell of bacon, but for the residents of Duplin County, it is the smell of hog waste stored in cesspools, called lagoons, that pollute air, groundwater and surface water. Mr. Hall stated that when he attended the North Carolina Environmental Justice Network summit in October 2005, EPA was viewed as an ally of the swine industry because the Agency allowed them to spray hog waste in communities and contaminate groundwater and surface water. Mr. Hall asserted that if the environmental justice project officer assigned to his region spent more time in the communities, then he or she might better understand the concerns of the community. Mr. Hall requested that EPA provide technical assistance to support affected communities so their concerns can be heard by local and state lawmakers. Mr. Hall also mentioned that community members had met with the nonprofit group RiverKeepers to tour the area and bring additional stakeholders to the table.

Follow-up questions and comments from the NEJAC members focused on the following issues:

- Mr. Omega Wilson commented that the Goods Movement Work Group is addressing the environmental effects of goods movement in low-income and minority communities in various parts of the country. Mr. Wilson asked Mr. Hall to clarify that the goods being moved through Duplin County are hogs and that the air pollution in the community is a mix of diesel emissions and chemicals in hog waste. Mr. Wilson stated that Mr. Hall's concerns are not unique to North Carolina – that industrial animal production affects air quality worldwide.

Mr. Hall stated that all aspects of goods transport is “controlled by the industry,” which owns the trucks, the hogs and the feed; however, contract growers are typically left to dispose of the waste. As an example, he described an incident in early 2006, when a man came to his office and said he worked as a truck driver for a rendering plant that processes dead hogs. While on the job, wearing the proper equipment and boots required for his job, the man stepped from his truck into a puddle that was contaminated with live bacteria. By the next day, he was taken to the emergency room because the bottom of his foot and two toes had been eaten away by the bacteria. Mr. Hall explained that the man developed other health conditions and was no longer able to work, but he had to hire an attorney to get Workers' Compensation for an accident that happened as a result of his working conditions. When the man died, the death certificate indicated that he died of “heart failure.” Mr. Hall stated that he believed the industry killed this man and left his family without a provider.

- Mr. Chuck Barlow stated that there is an overwhelming amount of data, studies, blue ribbon panels and rule-making at various levels of government. He asked Mr. Hall if it was possible for contract growers to recoup their initial investment within 10 years so that they could be in the position to close down or change operations at some of these facilities – or if conditions have remained constant over the last 10 to 15 years.

Mr. Hall stated that he had not seen any significant change. He said that when environmental groups petitioned the General Assembly to eliminate hog waste lagoons and sprayfields, Senate Bill 1465 was passed, but it allowed swine producers to simply cover the lagoons with a tarp to capture methane and other gases. The legislation did not mandate removal of the lagoons, and emissions are still allowed. In addition, Mr. Hall stated that the legislative process is compromised because the pork producers are major contributors to political campaigns.

- Ms. Yeampierre stated she felt overwhelmed by the enormity of the problem and the injustice of it all. She said she was at a loss over what the NEJAC should do. Ms. Yeampierre suggested calling for a nation-wide boycott of pork products to raise awareness of the problem.
- Mr. Hilton Kelley commented that relocation of affected communities cannot go on forever. As an example, he said that the entire community of Port Neches-Groves, located next to Port Arthur, was relocated a few years ago. Now hog farms that are encroaching on residential areas are “emitting a stench so bad that it is killing people.” He asked if these people should be relocated again, and when it would stop. The long-term approach should be to change policy and the regulatory framework. Mr. Kelly advocated for policy that will make the industries do business differently.
- Ms. Jody Henneke discussed the history of “integrated agriculture” and stated that in her experience, environmental regulatory control would only be successful if it regulated the company, not just the grower, because the money is not on the grower side.
- Ms. Fisher asked two questions: (1) What kind of input had Mr. Hall received from EPA and the Department of Agriculture?; and (2) What kind of regulations could be developed to keep industry honest about their intended actions and the effects of those actions?

Mr. Hall responded that in March 2007, whenever his organization hosted a roundtable conference to promote communication among the stakeholders, EPA representatives attended, but state and local officials did not. Mr. Hall said it was frustrating to have “no-shows” after spending months planning the event. Mr. Hall answered Ms. Fisher’s second question by stating his belief that the industry is so big that state and local governments are afraid to regulate it in any meaningful way.

- Ms. Yeampierre mentioned the human cost of environmental health issues. For example, when children missed school, their parents may have to miss work, and additional costs are incurred for medical insurance. In addition, the child’s education suffers, and chronic health conditions may affect the child’s future opportunities. She suggested that it could be useful to try to develop analyses that take into account these costs and the associated costs to the local and federal governments. Ms. Yeampierre acknowledged that it may seem inappropriate to put a dollar value to these issues, but that is what elected officials and many decision-makers understand.

2.11 Mr. Delma Bennett, Mossville Environmental Action Now, Louisiana

Mr. Bennett stated that he and his wife Christine, who spoke earlier, have been lifelong members of the Mossville community and have raised children and grandchildren there. Mr. Bennett reiterated the extent of contamination and the devastating health effects of emissions from chemical plants that surround the community. Mr. Bennett stated that various studies have been done by the chemical companies saying that they are not causing health problems; despite these findings, however, Mr. Bennett noted that someone is seriously ill in almost every household in Mossville. Mr. Bennett questioned the justice of giving companies permits to contaminate a community and sicken its residents. Mr. Bennett asserted that “only God is just,” and that the “unjust who destroy the earth will themselves be destroyed.” Mr. Bennett asked who the NEJAC ultimately answered to, and he appealed to the NEJAC members to hold EPA accountable for the legally permitted contamination of Mossville and other communities

Follow-up questions and comments from the NEJAC members focused on the following issues:

- Mr. John Ridgway responded that NEJAC members are appointed by EPA, and that the NEJAC is tasked with advising EPA on environmental justice issues and policy. He stated that the members themselves represent a diverse cross-section of community organizations, academia and industry. If needed, he offered to provide further clarification of roles and responsibilities for Mr. Bennett following the public comment period.

- Mr. Peter Captain stated that Native American elders have repeatedly professed their concern about the way the earth is being degraded, only to have it fall on deaf ears. He expressed his concern and sympathy for Mossville residents' struggle and stated that he is familiar with similar problems in Alaska.
- Ms. Elizabeth Yeampierre indicated that the NEJAC is tasked with an advisory role for EPA and may advise other agencies because those agencies may not have people who actually understand the struggles of communities affected by chronic contamination. She assured Mr. Bennett that the NEJAC includes representatives from communities that have been struggling against environmental racism for years. She also assured Mr. Bennett that the members heard his comments and take them very seriously because many have been fighting similar battles in their own communities. Ms. Yeampierre asserted that although rural and urban communities may struggle with different environmental justice issues, the NEJAC takes any instance of environmental racism very seriously and will work to address it. She stated that Mr. Bennett's testimony and the testimony of all the speakers are helpful to Council members' efforts to make recommendations on how to reshape policy. She appealed to Mr. Bennett to "continue the fight" knowing that the NEJAC is completely committed to addressing environmental justice issues, and that NEJAC is not interested in pursuing business as usual.

Mr. Bennett thanked the NEJAC for their work but reiterated that Mossville's problems have been known for years, and whoever has the money determines the outcome. He stated that no action is taken until enough people die or until it is too late to address the problem.

- Ms. Jody Henneke thanked Mr. Bennett for making the effort to provide testimony to the NEJAC. She stated that some NEJAC members are regulators or have been regulators, and that the NEJAC relies on testimony from people from across the country. NEJAC members then take that information back to their own communities, she added. Concluding her remarks, Ms. Henneke said that everyone's perspective is broadened by hearing other people's experiences.
- Mr. Hilton Kelly recalled traveling with Mr. Bennett to Mossville and other affected communities along the Gulf Coast as well as to Africa to see what communities look like without the EPA or some regulatory agency. Mr. Kelly stated that one reason he agreed to serve as a NEJAC member is because he represents the environmental justice community of Port Arthur, Texas. Mr. Kelly stated that his personal experiences were similar to Mr. Bennett's, and that he has known more than a dozen people who died of cancers that presumably resulted from environmental exposures to chemical contamination. Mr. Kelly asserted his intention to act as an advocate for grassroots organizations and to make sure all voices are heard.
- Mr. Omega Wilson suggested that in many cases, the policy is adequate, but enforcement is lacking. Mr. Wilson pointed out that almost every speaker mentioned problems with environmental policy and enforcement. Mr. Wilson asked Mr. Bennett if he was aware of policy that was in place but was not being enforced.

Mr. Bennett stated that he did not want to wait for policies to be enacted or enforced; he would prefer to be relocated away from the contamination. He also stated that every time there is a release, "lawyers get involved" and the community never sees any benefit. Mossville lives "under a cloud of dioxin" that is emitted from 14 plants operating under permits issued by regulatory agencies, Mr. Bennett continued. He noted that even with policy changes, the plants would continue to emit dioxin every day. Mr. Bennett asserted his belief that as long as we are dependent on petroleum products, there is too much money involved and nothing would change. Mr. Bennett noted that "God said you can't serve two masters – you can't serve God and money."

2.12 Ms. Stephanie Tyree, WE ACT for Environmental Justice, New York City, New York

Ms. Tyree began her remarks by stating that she was speaking on behalf of her native state of West Virginia and the Appalachian region (although she now lives and works in New York). Her specific concerns address the negative health, economic and environmental consequences of coal mining techniques that rely on mountaintop removal. Mountaintop removal mining has been used in Appalachia for more than 35 years, she said; it involves “literally blowing up” the top of a mountain to extract coal that occurs in thin layers. Continuing her remarks, Ms. Tyree said the practice is incredibly destructive and has irreversible environmental impacts and long-term economic effects on large areas of Kentucky, Tennessee, Virginia and West Virginia. Destructive resource extraction techniques also have had significant public health impacts in rural mining communities, with effects from the cradle to the grave, she said.

Ms. Tyree asserted that Appalachia has become the “national sacrifice for our energy addiction.” She asserted that blasting, heavy equipment operations, truck traffic and dust from mountaintop removal degrade air quality. Surface water quality and stream habitat are degraded by runoff from valleys fills, coal sludge lagoons, and erosion. Communities located near mining areas are also being devastated by more frequent flooding; in some areas, 100-year-floods occur on a 10-year basis. Ms. Tyree stated that she has observed communities that now have devastating floods two or three times in a year, although historically, those communities had never flooded. She asserted that some communities almost 200 years old are now vulnerable to such frequent flooding that their continued existence is in doubt.

Ms. Tyree stated that EPA has failed Appalachia, and she urged the NEJAC to address the significant environmental injustices affecting low-income communities in Appalachia. She said that although the new Presidential administration and the new EPA Administrator provide some hope that change will come to Appalachia, change cannot come soon enough. Ms. Tyree suggested that EPA is ignoring the concerns of the Appalachian community by appearing to toughen its stance on mountaintop removal but continuing to support the coal industry just as it has always done.

Ms. Tyree asserted that Appalachia is an environmental justice community that can no longer be invisible to EPA and the environmental justice movement. She offered three recommendations:

1. The NEJAC should engage in a regional listening session to hear community concerns related to mountaintop removal mining and should begin working on solutions and establishing strong, long-term relationships with Appalachian communities. Ms. Tyree suggested that listening sessions should be conducted in West Virginia because it is the only state located entirely within Appalachia.
2. The NEJAC should recommend that EPA be accountable for environmental injustices it perpetuates through the continued permitting of existing and new mountaintop removal operations and coal sludge and coal ash impoundments that poison low-income, rural communities. Coal ash impoundments occur throughout the country and should be considered a national issue.
3. The NEJAC should include a representative from Appalachia to increase awareness and prompt action to address the impacts on and concerns of the affected communities.

Follow-up questions and comments from the NEJAC members focused on the following issues:

- Mr. Charles Lee stated that earlier this year the Office of Environmental Justice met with a number of groups concerned about mountaintop mining. One of their requests was that the NEJAC include a representative from Appalachia, so that is going to happen when the new class of members comes on board at the end of the year.

- Mr. Omega Wilson noted the important historic and prehistoric significance of the Appalachian range in North Carolina and throughout the region. He asked Ms. Tyree if she had investigated how altering the mountain range could potentially affect regional weather patterns.

Ms Tyree responded by first recognizing the regional contributions of community advocates from North Carolina. Ms. Tyree stated that she also serves as the coordinator for the Environmental Justice Leadership Forum on Climate Change. The forum includes numerous environmental justice organizations working to enact climate policy that incorporates the concerns of minority and low-income communities. Ms. Tyree indicated that she was not aware of research on the climate impacts of mountaintop removal, but other issues have been studied, including the impacts on groundwater and surface water when valleys are filled and the headwaters of streams and rivers are buried. The fill material resulting from mountaintop removal allows metals to flow out of the soils into the headwaters, contaminating the entire stream at its source. Conservation biology is another active research area because mountaintop removal is destroying one of the most biodiverse regions in the world.

Ms. Tyree stated that mining degrades water quality for humans and wildlife. She said more than 100 chemicals are used to clean the coal obtained from mountaintop removal, but the industry will not release the name of the chemicals because they are considered “trade secrets.” The process used to clean coal produces a wet slurry called “coal sludge” that is stored in open lagoons or injected underground into abandoned mine shafts. In either disposal method, the heavy metals fall out of the mixture and move into drinking water supplies. Most Appalachia communities are not served by municipal water systems and must rely on well water, she explained. When so called “blackwater events” occur, well water is literally black; it might also be orange or smell like solvents. She added that blackwater events and toxic water are having huge public health effects in small, rural communities, including brain cancer clusters, kidney disease and gastrointestinal problems. Ms. Tyree noted that in some communities, almost everyone has had their gall bladder removed, and in many areas, children’s teeth fall out and grade-school students wear dentures. Ms. Tyree asserted that the environmental effects of mountaintop removal are causing a regional public health crisis in Appalachian communities.

- Ms Yeampierre thanked Ms. Tyree for describing the processes involved in cleaning coal from mountaintop removal and asked her to distinguish between cleaning coal and “clean coal.”

Ms. Tyree stated that “clean coal” involves a process of sequestering carbon dioxide after coal is burned for power. Ms. Tyree also stated that the coal industry is now backing off from its earlier statements that carbon sequestration technology is feasible, suggesting that even the industry recognizes that there is no “clean coal.”