

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

**Atlanta, Georgia  
September 11 and 12, 2013**

## 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 44 meetings in the following locations:

Washington, D.C., May 20, 1994	Washington, D.C., June 20 -- 22, 2006
Albuquerque, New Mexico, August 3 -- 5, 1994	Baltimore, Maryland, September 18 -- 20, 2007
Herndon, Virginia, October 25 -- 27, 1994	Washington, D.C., June 10 -- 12, 2008
Atlanta, Georgia, January 17 and 18, 1995	Atlanta, Georgia, October 21 -- 23, 2008
Arlington, Virginia, July 25 and 26, 1995	Arlington, Virginia, July 21 -- 23, 2009
Washington, D.C., December 12 -- 14, 1995	Teleconference Meeting, September 24, 2009
Detroit, Michigan, May 29 -- 31, 1996	New Orleans, Louisiana, January 27 -- 29, 2010
Baltimore, Maryland, December 10 -- 12, 1996	Teleconference Meeting, April 28, 2010
Wabeno, Wisconsin, May 13 -- 15, 1997	Teleconference Meeting, June 15, 2010
Durham, North Carolina, December 8 -- 10, 1997	Washington, D.C., July 27 -- 29, 2010
Arlington, Virginia, February 23 -- 24, 1998	Teleconference Meeting, August 26, 2010
<i>(Special Business Meeting)</i>	Teleconference Meeting, September 23, 2010
Oakland, California, May 31 -- June 2, 1998	Kansas City, Missouri, November 16 -- 18, 2010
Baton Rouge, Louisiana, December 7 -- 10, 1998	Teleconference Meeting, March 31, 2011
Arlington, Virginia, November 30 -- December 2, 1999	Brooklyn, New York, May 10 -- 12, 2011
Atlanta, Georgia, May 23 -- 26, 2000	Albuquerque, New Mexico, October 25 and 26, 2011
Arlington, Virginia, December 11 -- 14, 2000	Teleconference Meeting, January 27, 2012
Washington, D.C., August 8 -- 10, 2001 <i>(Special Business Meeting)</i>	Arlington, Virginia, July 24 and 25, 2012
Seattle, Washington, December 3 -- 6, 2001	Teleconference Meeting, September 21, 2012
Baltimore, Maryland, December 9 -- 12, 2002	Teleconference Meeting, November 14, 2012
New Orleans, Louisiana, April 13 -- 16, 2004	Teleconference Meeting, January 23, 2013
Washington, D.C., January 5 -- 6, 2006 <i>(Special Business Meeting)</i>	Teleconference Meeting, June 13, 2013
	Atlanta, Georgia, September 11 and 12, 2013

In addition, NEJAC, in collaboration with EPA, has held other special 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 -- 4, 1996
- Environmental Justice Enforcement and Compliance Assurance Roundtable, held in San Antonio, Texas; October 17 -- 19, 1996
- Environmental Justice Enforcement Roundtable, held in Durham, North Carolina; December 11 -- 13, 1997
- International Roundtable on Environmental Justice on the U.S./Mexico Border, held in San Diego, California; August 19 -- 21, 1999

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

- Members must be selected and appointed by EPA.
- Members must attend and participate fully in meetings.
- Meetings must be open to the public, except as specified by the EPA Administrator.

- All meetings must be announced in the Federal Register.
- Public participation must be allowed at all public meetings.
- The public must be provided access to materials distributed during the meeting.
- Meeting minutes must be kept and made available to the public.
- A designated federal official (DFO) must be present at all meetings.
- The advisory committee must provide independent judgment that is not influenced by special interest groups.

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

**NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL**  
**Atlanta, Georgia**  
**SEPTEMBER 11 and 12, 2013**

**MEETING SUMMARY**

The Executive Council (Council) of the National Environmental Justice Advisory Council (NEJAC) convened for its 44th public meeting on Wednesday, September 11, 2013, and Thursday, September 12, 2013, in Atlanta, Georgia. This synopsis presents highlights of the NEJAC members' deliberations during the 2-day meeting, including action items, requests, and recommendations; and briefly summarizes the issues raised during the public comment period. Appendix A presents a list of meeting attendees, both those who attended in person and those who participated via teleconference call. Appendix B presents written public comments and handouts associated with the public comment period.

**1.0 EXECUTIVE COUNCIL MEETING**

This section summarizes highlights of the NEJAC deliberations during the two-day meeting of the Executive Council.

**1.1 Introductory Remarks**

In accordance with the Federal Advisory Committee Act (FACA), Victoria Robinson, U.S. Environmental Protection Agency (EPA) Office of Environmental Justice (OEJ) and NEJAC Designated Federal Officer (DFO), convened the meeting. After welcoming attendees, Ms. Robinson introduced Margaret J. May, Ivanhoe Neighborhood Council and new appointed NEJAC Chair, as well as Lisa Garcia, Associate Assistant Administrator for Environmental Justice, EPA Office of Enforcement and Compliance Assurance (OECA); Cynthia Giles, Assistant Administrator, EPA OECA; and Stan Meiburg, Acting Regional Administrator for EPA Region 4, who would be presenting later in the meeting. Ms. May expressed her honor to be in Atlanta and serving as the new Chair for the 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. Ms. Robinson confirmed a quorum of members were in attendance (See Exhibit 1).

Ms. Giles noted that she was looking forward to May's tenure as Chair. In addition, she thanked members who are currently serving and those who have recently rotated off of the committee. She reminded the audience of the commitment of former EPA Administrator Lisa Jackson to environmental justice. She also previewed new Administrator Gina McCarthy's comments to the committee to reiterate her commitment to environmental justice.

Mr. Meiburg welcomed participants to Atlanta and thanked all of those who helped to make the meeting possible. He continued by acknowledging Gwen Keyes Fleming for her accomplishments while serving as Regional Administrator before moving up to serve as EPA Chief of Staff for Administrator McCarthy. During his extended comments, Meiburg acknowledged the birth of the environmental justice movement in North Carolina as well as the 20<sup>th</sup> Anniversary of NEJAC. He reminded those in attendance that environmental justice must be integrated into the fabric of all that we do. It is easy to say but hard to do, he said, noting that EPA Region 4 is actively working to integrate environmental justice into all of its work. In order to meet that goal, the region hosts regular teleconferences with environmental justice leaders, he explained. Capacity building for communities is a major concern in the region, he continued, adding that help is needed to develop grant proposals, economic development, green jobs and infrastructure. In addition to the ongoing work, the Region will be piloting an Environmental Justice Communities Institute in January 2014. The region currently has 38 MOUs with minority serving institutions and Historically Black Colleges and Universities to provide services to communities. In his final comments he asked that NEJAC members take some time to spend to talk about SWOT (strengths, weaknesses, opportunities, threats).

Savi Horne, Land Loss Prevention Project, Durham, North Carolina, asked for a moment of silence for Dollie Burwells' daughter who passed away and was laid to rest on Sunday, September 8, 2013.

Vernice Miller-Travis, Maryland State Commission on Environmental Justice and Sustainable Communities, Bowie, Maryland, acknowledged the work of Cynthia Peurifoy, EPA Region 4, and asked for more information about the Showcase community work. Mr. Meiburg responded by pointing to efforts underway in Jacksonville, Florida and North Birmingham, Alabama where the region is working with communities and integrating the work across the agency as well as utilizing outside resources to improve conditions in those areas. He added that Birmingham poses some challenges.

Horace Strand, Chester Environmental Partnership, Chester, Pennsylvania, inquired about the steps Region 4 is taking to work with state agencies to address concerns that are more state regulated. Mr. Meiburg replied that environmental justice is a regular topic at state agency meetings and that the Region strongly suggests that agencies consider broad aspects of the decision-making process at the state level. He reiterated that it is hard work since state regulatory responsibility is outside of the region's normal regulatory responsibility but that the interactions can help to build some significant relationships.

Terri Blanton, Kentuckians for the Commonwealth, Berea, Kentucky, asked how Region 4 uses

**Exhibit 1**  
**NEJAC Executive Council**

**Members in Attendance**

Margaret J. May, NEJAC Chair, Executive Director, Ivanhoe Neighborhood Council  
Teri E. Blanton, Kentuckians for the Commonwealth  
Andrea Guajardo, Conejos County Clean Water, Inc.  
Charles Chase, University of Colorado  
Stephanie Hall, Valero Energy Corporation  
Mike Ellerbrook, Virginia Tech  
Savonala "Savi" Horne, Land Loss Prevention Project  
Javier Francisco Torres, Border Environment Cooperation Commission  
Vernice Miller-Travis, Maryland State Commission on Environmental Justice and Sustainable Communities  
Fatemeh Shafiei, Spelman College  
Edith Pestana, Connecticut Department of Environmental Protection  
Ellen Drew, Rural Communities Assistance Corporation  
Michelle Moore, New York State Department of Environmental Conservation  
Cynthia Kim Len Rezendes, Mohala I Ka Wai  
Kenneth Smith, City of Kingsland, GA  
Horace Strand, Chester Environmental Partnership  
Kerry Doi, Pacific Asian Consortium in Empowerment (PACE)  
Rosalyn LaPier, Environmental Historian  
Deidre Sanders, Pacific Gas & Electric  
Jill Witkowski, San Diego Coastkeeper  
Effenus Henderson, Weyerhaeuser  
Felix Kitto, Santee Sioux Nation of Nebraska  
Peter M. Captain, Sr., Yukon River Intertribal Watershed Council  
Nicky Sheats, Thomas Edison State College  
Victoria Robinson, NEJAC DFO, EPA Office of Environmental Justice

**Members Not in Attendance**

Kandi Mossett, Indigenous Environmental Network  
Kimberly Wasserman, Little Village Environmental Justice Organization  
Paul Shoemaker, Boston Public Health Commission

environmental justice tools when working to screen when permits are issued. She wanted to know what Kentuckians can do to make sure that permit processes are fair and consider all implications of the effect on communities. Mr. Meiburg stated that Region 4 could conduct oversight of permits and work with states while meeting EPA statutory obligations. He further stated that his office could engage and involve the public in such a way as to work with the public, which hopefully would create permits of high quality. He acknowledged that the Agency falls short but it is a hard job within the constraints that it must operate. He encouraged citizens to continue being vigilant and providing comments.

Effenus Henderson, Weyerhaeuser, Seattle, Washington, suggested that EPA look at demographic changes and have an organization that is reflective of those demographic changes. Mr. Meiburg said that he was conscious of the demographic changes in the region but acknowledged that there are some challenges with the current budget constraints. He stated that he would like to be able to bring in a cadre of new environmental staff.

Michael Ellerbrook, Virginia Polytechnic Institute and State University, Blacksburg, Virginia, requested that all attendees take a moment to remembrance the anniversary of September 11<sup>th</sup> and the lives lost.

Nicky Sheats, Center for the Urban Environment, Thomas Edison State College, Trenton, New Jersey, thanked Mr. Meiburg for the region's work but stated that he will continue to remind everyone that there still remains a need to reduce the pollution in overburdened communities. He said that EPA must find innovative ways to reduce those problems. He concluded by saying that EPA must say that it cannot help these communities with the authorities that they have and must go and ask for the authority that they need to make the changes. Mr. Meiburg responded that he understands and pointed to the Regenes Project in Spartanburg, South Carolina, as a great example. As to adequate authority to take action, Mr. Meiburg indicated that he was concerned about keeping the authority that the agency already has.

## **1.2 Remarks from the Administrator**

Participating via video teleconference, EPA Administrator Gina McCarthy opened by acknowledging she is honored to follow in the footsteps of former Administrator Lisa P. Jackson. Noting that Jackson left "pretty big shoes to fill," Ms. McCarthy stated that Jackson's departing message was to nurture relationships with environmental justice and communities. Ms. McCarthy welcomed new members and acknowledged retiring members for their hard work and commitment to the NEJAC and environmental justice. She particularly thanked former NEJAC Chair Elizabeth Yeampierre for her work as chair but her continued commitment to environmental justice. She added that she looked forward to building personal relationship with new NEJAC Chair Margaret May. Administrator McCarthy recognized the 20<sup>th</sup> Anniversary of the NEJAC charter and acknowledged Richard Moore for his service to the NEJAC as Chair.

Ms. McCarthy noted that EPA has had a measure of success in moving environmental justice forward but acknowledged that the work is not complete but efforts will build on previous work. There has been tremendous progress nationally, but not in every community, she said, adding that we haven't completed the task until it is done. It is important to not make the mistake of touting what has been done rather than talking about the challenges of what needs to be done, she said. EPA needs to ensure that cumulative risks are built into decision framework more aggressively, she explained. EPA will keep efforts moving forward, she continued, noting that partnerships, such as the urban waters program, are key. As we move forward, Ms. McCarthy explained that there is a need to identify areas where EPA can make the next leap forward. Environmental justice is about the core principles of how EPA does its business by better protecting public health and interpreted at the community level, she continued. She added that she is looking to the NEJAC to help her "hone" in on the challenges. Pointing to a recent community meeting about concerns about toxics, she noted that it served as a visible reminder about life of communities around refineries and other places. She explained that the question needs to be what communities need and focused on where the problems exist and where the opportunities are today. Ms. McCarthy then noted that climate change is an important topic. Pointing to the President's decision to tackle climate in a significant way state by state and

community by community, she stated that the most vulnerable communities today are going to be the most vulnerable communities in a changing climate.

The NEJAC members expressed their appreciation for the Administrator's words and commitment to expanding on the work and leadership of previous Administrator Jackson on environmental justice. The members also posed a variety of questions to Administrator McCarthy.

Ms. May asked for more detail about how Administrator McCarthy would like to engage the NEJAC. Ms. McCarthy responded that the Agency is developing a strategic plan over the next few years where the NEJAC could assist in the development of measures of success. Ms. McCarthy added that EPA needs to focus on on-the-ground improvements and gain a better understanding of local needs. The NEJAC can help the Agency in that regard, she concluded.

Michelle Moore, New York State Department of Environmental Conservation, Long Island, New York, asked how, in this climate of diminishing resources, how the Agency plans to continue support for the environmental justice effort, as well as support to states. Ms. McCarthy noted that EPA is trying to make consideration of environmental justice a mainstream of the core work of the agency. Admittedly, she continued, EPA can do a much better job; however. The Agency will begin to enhance its ability to address and serve the needs of environmental justice communities. For example, she explained, EPA will make it the focus of a coordinated grant strategy, as well as in integrating it into the work of the Agency. The idea, she said, is to not build up but rather to target entire resource of agencies where it is most important and most needed.

Felix Kitto, Santee Sioux Nation of Nebraska, Niobrara, Nebraska, asked if McCarthy could change one thing about EPA's operations, what would it be and how would she accomplish it. Administrator McCarthy stated that environmental justice has been seen as a "one-off" issue and that it should not be seen as such, and so systemic changes need to be made. She noted that the breadth of the challenge is something we must recognize. Administrator McCarthy indicated that she does not see how to get to the finish line if we don't look at the positive aspects of what we are trying to do and celebrate the victories when we achieve them. She stated that the challenges are must larger than some think, and so we need to bring all stakeholders to the table, and make everyone feel welcome to participate in the dialogue. She is most interested in building positive momentum to meet the challenges of environmental justice, in collaboration with all stakeholders.

Ms. Blanton noted that addressing cumulative risks is extremely important; adding that she hoped that Administrator McCarthy will push the use of scientific tools and not succumb to political pressure. McCarthy responded that the Agency will be working to maintain its scientific credibility. In addition, she added that water will be a major focus in the future, noting that the Agency has not done as much about the legacy issues associated with this media. Ms. Blanton acknowledged the commitment, noting that her home state of Kentucky is an area that has 80-90% of rainfall but citizens still have problems getting clean drinking water.

Ms. Miller-Travis stated that the NEJAC sent a letter to EPA in which the Council urged the Agency to employ the "general duty clause" of the Clean Air Act to regulate chemical facilities to protect vulnerable communities. She asked why the EPA response letter to the NEJAC did not include a response to that specific question about the use of the general duty clause. Ms. Miller-Travis requested that someone at the highest levels at EPA address this concern. It was noted by EPA representatives that EPA Acting Administrator for Air and Radiation Janet McCabe would address this question later during her presentation to the NEJAC.

Mr. Strand expressed concerns about the reduction in EPA's financial support for communities, such as EPA's CARE program. He stated that communities are being asked to continue to do the work, but with no additional resources. He noted that EPA should at least support the existing projects so they can be brought to completion and given the attention that is necessary.

### 1.3 Considering Environmental Justice in TSCA

The following individuals took part in the panel on Environmental Justice and the Toxic Substances Control Act (TSCA):

- Michele Roberts, Environmental Justice and Health Alliance for Chemical Policy and Reform
- James J. (Jim) Jones, Assistant Administrator, EPA Office of Chemical Safety and Pollution Prevention (OCSPP).

Ms. Roberts opened the discussion with by noting that she came not only to share her thoughts but the thoughts and concerns of others from various communities regarding the need for effective management of chemicals. Ms. Roberts noted that many communities are working hard to address the environmental and public health impacts in their communities with very little resources. She expressed concern that communities are being relocated from contaminated areas not due to the concern for the health of the residents but to make room for the chemical industry to produce more chemicals. She asked why petrochemical facilities are allowed to exist in sensitive population areas. She indicated that many of the residents in Louisiana who live adjacent to or near petrochemical facilities worked hard to develop their beloved communities, years before the arrival of the industry.

Ms. Roberts asked that EPA provide transparency and encourage Congress to add the following into the TSCA reform legislation:

- Define and protect vulnerable populations
- Include hot spots language and protect civil rights.
- Preserve state authority -- some states are doing good work.
- Establish deadlines and timetables
- Require adequate data to prioritize chemicals for immediate action
- Ensure all health and safety information on chemicals is truly made public
- Enforce a systems change to provide safe alternatives

Ms. Roberts also highlighted concerns facing various communities, such as:

- In Alaska – the stock pile of military waste is in Alaska impacting the wildlife that is used for subsistence by the Alaskan Natives. The wildlife also is being impacted by climate change.
- In Appalachia – drinking water is being impacted by mountaintop mining.
- In Louisiana’s “Cancer Alley” – many residents have asthma caused by the flaring conducted by the petrochemical facilities
- In Albuquerque – waste dumps have caught on fire and exposed nearby communities to pollution and other negative environmental and public health impacts

Ms. Roberts concluded by stating communities are standing ready to work with EPA to address the various environmental and public health concerns, so communities can drink clean water, breath clean air, and live on clean land.

Mr. Jones discussed ways EPA is working to improve the safety of chemicals. Specifically, he focused on formaldehyde emissions from composite wood projects. Mr. Jones noted that in 2010 EPA was authorized to issue standards for use the of formaldehyde, which came about due to the impacts of formaldehyde in the FEMA trailers used after Hurricane Katrina. The EPA has issued a draft rule and is seeking public comments at this time. Mr. Jones indicated that EPA has only heard from business and industry and would like to hear from a broader range of stakeholders about the draft rule. Mr. Jones also discussed EPA’s efforts to reduce childhood lead poisoning by ensuring that contractors who work on homes with lead

paint minimize exposure to lead-based paint hazards and protect children and others.

Mr. Jones noted how incredibly difficult TSCA is to implement, and that EPA is working with Congress in pursuing TSCA reform. In the meantime, EPA is seeking ways to make the existing law more useful in protecting the environment and public health, such as:

- Providing access to data: EPA has created a web based portal called “ChemView” so the public can access the data that EPA has on hazardous chemicals and exposure (all EPA data that is not confidential business info is accessible). This portal is being provided to help the public make informed decisions.
- Promoting the use of safer chemicals: EPA is promoting alternatives to more hazardous chemicals, through the Design for the Environment (DfE) initiative. The DfE will be renamed to make it more understandable to the public, to make it clear that it is about products that are less hazardous from a chemical standpoint. There are 600 chemicals that EPA has identified as safer chemicals.
- Using risk assessment to effect risk management: From the thousands of existing chemicals, EPA identified 3 chemicals to focus on, after utilizing a set of criteria for selection. Among other considerations, EPA evaluated work place exposures, flame retardants, and those that are most highly exposed or most sensitive to the chemicals (youth, elderly, etc.). EPA has had little experience in this area, but is determined to move forward with the initiative.

Multiple NEJAC members asked questions or provided comments. Ms. Andrea Guajardo, Conejos County Clean Water, Inc., Antonito, Colorado, suggested that the EPA environmental justice coordinators reach out to the communities to inform them of the key EPA rules, regulations, policies, etc. that are out for public comment as a way to enhance input from more stakeholders.

Ms. Jill Witkowski, San Diego Coastkeeper, San Diego, California, noted that TSCA offers limited opportunity for community engagement and asked whether there were ways citizens can get more involved in the execution of TSCA. Mr. Jones noted that there is a citizen petition provision in TSCA, which has been widely used. The combination of the lack of action in TSCA and the greater interest by grassroots groups is what has led EPA to look more closely at chemicals, he added.

Ms. Stephanie Hall, Valero Energy Corporation, San Antonio, Texas, inquired about the partnerships EPA has on safe chemicals, how EPA is ensuring that safer chemicals actually work for their intended purposes, and how can business and industry who produce useful products better work with communities that are affected by the production of the products to co-exist and find the proper balance and meet each other's needs. Mr. Jones stated that the consumer product companies who submit the ingredients to EPA are the Agency's partners. In addition, there are a whole new set of non-governmental organizations that are also looking at how chemicals can or should be assessed. He also noted that EPA does check to ensure that the alternative products perform as intended.

Ms. Roberts stated that we need to understand how things are being done by companies in the United States and how these companies operate in other areas of the world. In some places companies use the “precautionary principle”, but in the United States they are not, she continued, noting that vulnerable communities are saying we need to identify the best way to protect everyone. We are not saying we don't want the business and industry, but we want them to protect all communities, Roberts continued, adding that we need to acknowledge truthfully what our challenges are and scale up appropriately to address them. Mr. Nicky Sheats, Thomas Edison State College, Trenton, New Jersey, expressed concerns about the cumulative impacts of chemicals facing communities that, as the law currently restricts, are not able to be considered when companies seek new permits to pollute.

Ms. Horne noted concerns about perfumes and makeup, although some positive changes appear to be

occurring. Pesticides exposure to farmworkers is also of great concern to many. She asked if this vulnerable population is getting attention through TSCA. Mr. Jones noted that EPA has authority over industrial chemical use and pesticides, and has the jurisdictional lead on farmworker exposure to pesticides, adding that EPA is working closely with the U.S. Department of Agriculture about farmworker exposure to pesticides.

Mr. Kerry Doi, Pacific Asian Consortium in Empowerment, commented that historically, the use of lead-based paint has caused lots of poverty. He asked what success looks like for EPA's lead program. In addition to training 4,000 home remodeling workers, he stated that it should ultimately be that lead-based paint is no longer causing elevated lead in the blood of low-income residents. Mr. Jones responded that the ultimate success measure for EPA's lead program is that no one has elevated lead-blood levels.

#### **1.4 Plan environmental justice 2014 Update**

The following EPA senior officials presented on the progress of the EPA's Plan environmental justice 2014 and developments since the last NEJAC meeting:

- Lisa Garcia, Associate Assistant Administrator (AAA) for Environmental Justice, EPA OECA
- Charles Lee, Deputy AAA for Environmental Justice, EPA OECA

Ms. Garcia spoke of new developments in the implementation of Plan environmental justice 2014. She noted that former Administrator Jackson had implemented the plan to develop a roadmap for the Agency. Ms. Garcia acknowledged that the NEJAC has been very helpful in recommendations on permitting, rulemaking and legal tools. She noted that the Annual progress report, issued early Summer 2013, captures the efforts undertaken by the Agency during the last two years, notably (1) the development and implementation of guidance for considering environmental justice in rulemaking; (2) reinvigoration of the Interagency Working Group on Environmental Justice (environmental justice IWG) and (3) the continued efforts to finalize technical guidance for considering environmental justice in rulemaking.

Mr. Lee provided an update on the technical guidance for considering environmental justice in rulemaking. He explained that the document serves as a guide for EPA staff on how to assess for Environmental justice concerns. He noted that opportunity for public comment had closed 9/6, and that a preliminary draft will be ready in early 2014. The Agency anticipates that the guide will be final by late spring/mid-summer 2014.

Ms. Garcia said that there would be an agency effort to create a new roadmap that would:\

- Fully implement 2014
- Continued integration and implementation of environmental justice across the agency to create more accountability
- Making a visible difference in communities by encouraging EPA to get out and involve staff in community activities

She echoed the commitment of the Administrator to engage community and others in the work of improving community. She announced that EPA is working within the Agency, as well as with the White House and others, to plan a celebration of the 20<sup>th</sup> Anniversary of E.O. 12898 on environmental justice. She added that there is new work to put environmental justice analysis front and center, as well as exploring what EPA can do to work with the community and do things to address what may come out of public participation. The recent White House Climate Action Plan offers opportunities, she continued. She also described Title VI as a robust program with the goal of making it meaningful for communities in the future.

Charles Chase, University of Colorado, asked what NEJAC could do to help with this effort. Mr. Lee

responded that the NEJAC could help through continued support of the plan and the technical guide. In addition, he noted that the NEJAC should think about how to help EPA ensure that it has the right data and information to consider when developing actions on permitting as well as research.

Deidre Sanders, Pacific Gas & Electric, San Francisco, California, encouraged new NEJAC members to avail themselves of the opportunity to engage with work groups. She acknowledged that there industry is the “elephant in the room,” noting that EPA had not talked about engaging industry in this conversation about protecting environmental justice communities. Protecting communities from what and from whom, she asked. If EPA does not have the authority to resolve a problem then EPA must start not just talking about collaboration but to find ways in which it can engage with industry and other interested partners, she urged. Whatever is done must be done in the context of protecting while growing an economy—a needed industrial development, she continued. Ms. Garcia responded that under the community based initiative in the Promising Practices document it was the intent of EPA and the U.S. Department of Justice (DOJ) to talk about how to work with industry to create an umbrella of partners. Nothing is more relevant than that relationship, she noted.

## **1.5 Access to Healthcare**

Natalia Callus, U.S. Department of Health and Human Services provided brief comments about the Affordable Care Act (ACA). She explained that the web-based healthcare marketplace will be accessible on October 1, 2013 for the health marketplaces sponsored under the ACA. ACA marketplaces are managed state by state, she continued, noting that in EPA Region 4, all states except Kentucky (which is developing its own marketplace), will participate in the federally-sponsored marketplaces.

## **1.6 Industrial Flaring: New Approaches, Fence Line Monitoring, and Community Benefits**

Ms. Giles provided an update about EPA’s enforcement and compliance activities aimed at improving the environment and public health in vulnerable communities. Ms. Giles noted that enforcement is all about making a difference in communities, especially vulnerable communities. She stated that the EPA is looking at air toxics from chemical manufacturing facilities and the potential impacts on neighboring communities, in particular the practice of flaring. Ms. Giles explained that flares are intended to destroy toxic pollutants that might otherwise impact communities. She indicated that the EPA is seeking to reduce the need for flaring by encouraging the reduction in waste produced and ensuring that flares are working properly. She noted that the Agency did find that some facilities were emitting more than 30 times the pollution levels they had been permitted to emit. Ms. Giles stated that the EPA has conducted enforcement to cap the amount of waste coming from the flares to ensure they are functioning effectively. She noted that agreements with Marathon Oil, British Petroleum (BP), and Shell Oil were reached to reduce the waste coming from their flares. Through such enforcement actions, Ms. Giles indicated the companies came to see an opportunity to reduce their costs by improving the recovery of gas produced through production and reusing the gas.

Ms. Giles explained that another enforcement action resulted in an agreement by a company to provide fence line monitoring for air emissions. She noted that the data generated from the monitoring is posted on a real-time basis so the public can monitor what pollution is being registered. She stated that this kind of monitoring has encouraged better interaction between the facilities and the neighborhoods. Ms. Giles indicated that the EPA plans to include fence line monitoring as a possible condition for future air enforcement actions. She noted that the EPA also shared the data it had collected about various flares with other companies so they could take action to ensure their flares were in compliance and therefore prevent the need for an enforcement action, by adopting the best practices identified.

Several NEJAC members asked questions or provided comments. Ms. Horne suggested that EPA leadership meet with business and industry to encourage the use of best practices as a way to help improve compliance. Mr. Doi noted that California obtains from companies that exceed allowable emissions, funds

to support environmental and public health protection in impacted and vulnerable communities. Mr. Doi identified this as a (state) best practice that perhaps EPA could encourage other states to adopt. He also asked whether EPA was aware of other best practices that EPA could encourage states to adopt.

Ms. Fatemeh Shafiei, Spelman College, Atlanta, Georgia, asked whether the data reporting required of companies for the Toxic Release Inventory (TRI) might be able to provide the type of data needed by communities who want to identify what chemicals are being emitted into their communities from facilities. Ms. Giles noted that TRI data is an annual reporting requirement, whereas the fence line monitoring is accessible daily and in real time.

Ms. Hall asked whether EPA is facing challenges in helping communities address concerns through enforcement actions. Ms. Ellen Drew, Rural Communities Assistance Corporation, Las Vegas, New Mexico, asked whether EPA can take a percentage of a fine and set it aside for supplemental environmental projects (SEP) that can help communities provide comments on federal rules, regulations, etc. She noted that business and industry have resources to pay individuals to do the reviewing and develop comments for their interests, and the communities typically do not. Ms. Giles indicated that EPA can reduce penalties for enforcement actions by allowing some SEPs in the impacted community that can help address the impacts or related impacts from the environmental crime. She noted, however, that federal environmental penalties, by law, are not able to be used to support community needs beyond environmental and public health impacts directly related to the environmental offense. Ms. Giles stated that EPA is restricted by law what it can do, but the Agency is seeking to maximize its authority through SEPs to help address the concerns of the communities

Mr. Sheats commended EPA for its efforts to ensure that enforcement is effectively implemented. However, he expressed concerns that companies are being able to legally pollute communities. He noted that, in communities that are already overburdened companies are able to put in additional polluting facilities since cumulative impacts are not able to be brought into the decision. Ms. Giles agreed that addressing cumulative risks is a challenge and stated that EPA is seeking to identify ways to address this concern. Ms. Garcia noted that EPA's community-based initiative, with leadership from EPA's Office of Solid Waste and Emergency Response, is looking to identify opportunities to highlight best practices in land use practices, recognizing EPA does not have authority on land use.

Ms. Miller-Travis suggested that EPA look into closing the "loop hole" in the monitoring of emissions when companies use the process of shutting down and starting up operations to get around emission limits. She also noted that EPA is bringing out two additional air rules and suggested that the experience OECA recently had with enforcement flaring be shared with EPA's the Office of Air Quality, Planning, and Standards (OAQPS), which is developing start-up and shut-down rules.

## **1.7 Incorporating environmental justice Concerns in the PM2.5 NAAQS Implementation Rule**

Laura McKelvey, OAQPS, provided an overview about Agency efforts to incorporate environmental justice concerns into the National Ambient Air Quality Standards (NAAQS). Starting with an overview of the NAAQS program, Ms. McKelvey moved to a background on the MP2.5 NAAQS for fine particulates. She explained that in December 2012, the Agency had revised that NAAQS to provide for increase public health protection. In areas with multiple ambient monitors, she explained, the highest PM2.5 concentrations tend to occur in areas where surrounding populations are more likely to live below the poverty line and to have higher percentage of minorities. She noted that EPA is now developing the implementation rule for the PM2.5 NAAQS and anticipates announcing the proposed rule in early 2014.

Ms. McKelvey summarized possible ideas for States to reduce the exposure of overburdened communities to PM2.5, notably through state implementation plans (SIP) or by targeting reductions via permitting or other programs. She also noted possible ideas for Stets on meaningfully involving overburdened communities in SIP development.

Consider concentration, length of time considerations in setting standards.

Ms. Sanders noted that Ms. McKelvey's presentation emphasized more stringent controls. She explained that in California, industry operates "much cleaner" that it is more difficult to reduce pollution from larger industry because a lot of the pollution may be from smaller "mom & pop" operations. She stated that the rule could create some disincentive and disinvestment from these communities. She asked what research has been done about communities that are not low-income communities but who might be impacted from exposure. Ms. McKelvey responded that she will have to check with staff and provide a response.

Pointing to Ms. Sanders comments about the use of incentives to industries that do not pollute, Nicky Sheats stressed the importance of ground-truthing – there is a need to inventory or catalog the small pollutant sources in communities.

Ms. Guajardo asked whether EPA has any financing or funding resources to assist small communities to have that conversation with the states, particularly about NEPA or other regulatory requirements, tracking, etc. Ms. McKelvey asked Ms. Guajardo to give her a call to discuss further.

Mr. Doi asked whether it was possible that EPA would develop model legislative language to assist in consolidating many organization to create one entity.

Ms. Miller-Travis asked whether there is a way to do more analysis in unmonitored communities, adding whether a rule could include a larger role in including monitoring of sources and alternative site analysis. Ms. McKelvey responded that EPA would take it under consideration for the next rule, But would not be able to do so for the current one.

Ms. Blanton and Ms. Cynthia Rezendes, Mohala I Ka Wai, Waianae, Hawaii, asked whether EPA had taken a look at smaller communities, particularly those in more rural areas. In addition, Ms. Rezendes wondered whether the Agency had taken the time to understand natural background concentrations versus the additional concentration created by these additional sources. It is a matter of really being able to tell people that if all of these other sources went away that there would still be these other sources, she noted, adding that she wants to understand background and change. Ms. McKelvey responded that some form of technical guidance will go along with how to implement the proposed rule. Ms. Moore noted that it is important to not only create an inventory of sources, but include an educational component for the public as well.

Ms. Hall noted that she was intrigued by the need for access to healthcare and asked whether there is a study available comparing air impacts for people with good access to health care. How do low-income communities fare against communities with higher income, education, etc., she said. Ms. McKelvey acknowledged that would be an area where there is need for study.

Ms. McKelvey concluded her discussion with an invitation for the members to contact her for more information about the community capacity building activities her office engages in, including a Train-the-Trainer workshop scheduled for October 2013. We want to help people be more effective, she concluded.

## **1.8 Dialogue with EPA Office of Environmental justice Director**

Mr. Matthew Tejada, Director, EPA Office of Environmental Justice, discussed how his experiences working in Eastern Europe with environmental non-profit organizations led him to seek to work with non-profit organizations and grassroots organizations to address their environmental and public health concerns in his hometown of Houston, Texas. Mr. Tejada expressed his eagerness to work with the NEJAC and ensure their voice and advice is effectively obtained and seriously considered in the decision-making processes of EPA. He expressed his openness to creating other work groups or developing other effective means to ensure the relevance and vitality of the NEJAC.

A few of the NEJAC members provided comments and/or asked questions. Mr. Kenneth Smith, City of Kingsland, Georgia indicated that some companies have contaminated lands in overburdened communities and have just left the contaminated areas. He inquired whether Oenvironmental justice would be willing to work with other offices to address these concerns.

Ms. Miller-Travis stated that Title VI program needs to be looked at seriously. She suggested that the NEJAC create a work group to focus on the nexus between environmental justice and Title VI, including an examination and identification of how Title VI can be more fully utilized by EPA to address environmental justice issues.

Ms. Guajardo noted how important it is for EPA to work with other federal agencies to address environmental justice issues. Mr. Ellerbrock asked what works better -- the carrot or the stick-- for engaging oil and gas companies around these issues. Mr. Henderson emphasized the need to ensure all who need to be at the table are invited and encouraged to be at the table, and noted the importance of utilizing the appropriate systems for getting to the issues and addressing the issues. He stated that he was encouraged that OEJ has, as one of its priorities, engaging all stakeholders and encouraging them to work collaboratively to address the environmental and public health concerns, as well as other quality of life concerns. Ms. May expressed her appreciation to Mr. Tejada for providing some insights into his experiences and providing the NEJAC the opportunity to begin the process of getting to know him personally.

Mr. Tejada indicated that OEJ has a close working relationship with various EPA offices and that OEJ is seeking to expand its working relationships with other EPA offices. He also noted that the EJ IWG and the regional EJ IWGs are an important means for bringing attention and effective responses to addressing issues of environmental justice; each serves as an effective convener for bringing parties together to address environmental justice concerns. Mr. Tejada also stated that there is not a “tool in the drawer” that can’t be used and that we all must seek to identify who are the constituencies that are interested in the issue, and see what carrots or sticks might be able to be most appropriate to use. He noted that there is a need for personal relationships to be developed amongst all constituencies, in order for environmental justice to be effectively provided.

Gwendolyn Keyes-Fleming, EPA Chief of Staff, stated that implementation of Title VI is a great responsibility of EPA and that the Agency is committed to continuing the dialogue on how EPA can best implement Title VI.

## **1.9 Next Steps for Addressing Environmental Justice Permitting**

Ms. Garcia noted that under Plan EJ 2014, permitting is identified as one of the core focus areas. She explained that as part of the plan implementation, an EPA work group was created to develop a plan for incorporating environmental justice into the Agency’s permitting process. She noted that EPA Region 2 serves as the lead for the internal EPA work group.

Ms. Janet McCabe, Acting Assistant Administrator, EPA Office of Air and Radiation, recognized that the NEJAC has, for years, helped the Agency identify effective ways to incorporate environmental justice into its permitting program. Most recently, she noted, the NEJAC developed a set of recommendations on permitting which have been instructive for the Agency. Ms. McCabe also noted that EPA has developed two documents for incorporating environmental justice:

- EPA Actions – each region is developing a plan for how they are going to screen for environmental justice issues in their permits and what actions they plan to take to address the issues. Agency staff are eager to incorporate environmental justice considerations in their decision-making processes. The EPA is beginning to review the effectiveness of the implementation plans. The Agency is looking forward to

receiving advice and recommendations from the NEJAC on permitting and environmental justice. The EPA has seen some of the initial draft advice and recommendations of the NEJAC, such as the advice that the Agency ensure some national consistency, that EPA periodically review how the implementation plans are being applied and if the plans are being effective, and the Agency is encouraged to work with businesses to assess how they can effectively incorporate environmental justice analysis in the development of their permits. The EPA is looking to develop a best practices document for businesses and industries on incorporating environmental justice in their processes, especially permitting.

- EPA's Environmental Justice Analysis of Permits – EPA is currently seeking to develop an understanding of how an environmental justice analysis should be conducted and what EPA can do to expand the incorporation of environmental justice beyond the permitting process. The EPA staff must be able to understand what an appropriate environmental justice analysis is, or what the range of appropriate environmental justice analysis should be.

Ms. McCabe also noted that EPA is looking to obtain the NEJAC's assistance as the Agency proceeds with developing its guidance for how to select permits to conduct an environmental justice analysis, what constitutes a good environmental justice analysis, and how communities' concerns can inform an environmental justice analysis. In addition, she noted that EPA is working to develop environmental justice outcome measures for its permits. Specifically, EPA is working to determine the kinds of permit outcomes that would be helpful to communities with environmental justice concerns, such as permit conditions and possible neighborhood agreements. She noted that EPA is interested in getting the NEJAC's input on the following:

- What should EPA be doing to ensure communities can have meaningful involvement in the permitting process?
- What is it that EPA can and should be doing to properly assess what environmental justice impacts may exist in the permitting process?
- What specific permit terms and conditions have effectively addressed communities' environmental justice concerns?
- What other permit outcomes have effectively addressed communities' environmental justice?
- How should EPA engage communities in a conversation about permit outcomes during the permitting process?

Several NEJAC members raised questions or provided comments.

Ms. Watkowski asked whether EPA delegated programs were also involved in this work, inquiring as to how EPA could help municipalities or states conduct effective community outreach and engagement during their permitting processes.

Ms. Sanders asked how EPA was engaging the applicant (i.e., business/industry) to consider environmental justice in permitting work and whether the effort has been piloted to assess how it can work best. Mr. Doi asked what kinds of legal authorities EPA has in permitting.

Ms. Rezendes asked if a state is delegated the authority to implement a federal permits program, will it be required to incorporate the EPA environmental justice permitting process. She noted that by not requiring the delegated programs to incorporate environmental justice in the permitting process it would be less effective.

Mr. Chase expressed concern that the reduced resources at EPA would appear to reduce the potential implementation of this new environmental justice permitting process.

Ms. Rosalyn Lapier, Piegan Institute, Missoula, Montana, noted the importance of EPA considering the broader definition of public health as it pertains to indigenous communities, and be cognizant of tribal ceded territories when reaching out to communities about permitting decisions. She indicated that some of the tribal traditional and treaty rights areas are not all located near or adjacent to where the tribes live now. Ms. LePier further shared that most tribal elders have limited English speaking and reading capability – EPA should recognize that oral discussion is their primary means of communication.

Mr. Sheats stated that it is no longer acceptable for EPA to say we do not have authority to address certain concerns, since EPA can work with those who do have the authority or the Agency can seek creative mechanisms to address the concerns. He also asked whether EPA has the authority to deny permits in areas that are already out of compliance, and if not, whether EPA will seek that authority.

Ms. McCabe stated that EPA is focusing on EPA's process but expects the work the Agency is conducting around environmental justice and permitting to be helpful to states, tribes and municipalities as they implement their permitting processes. She noted the importance of distinguishing between the various types of delegated programs. For example, in the air program, the states have greater autonomy and create their own processes for EPA to review and approve. However, Ms. McCabe indicated that EPA is in dialogue with states about incorporating environmental justice in their permitting processes. She also indicated that the EPA legal permitting authorities are dependent on the permitting authority of each statute. For example, she noted that EPA has the authority to require monitoring in some circumstances. Ms. McCabe also stated that EPA is planning to highlight the incentives for the permit applicant to include environmental justice in their permit application. She noted that it would make the permit process work more effectively, with less uncertainty, if the applicant worked with interested parties in the area where the facility is desired to be permitted. Ms. McCabe indicated that EPA's permitting documents encourage applicants to engage and interact with the community before they submit the application. This helps reduce the concerns and consternation of communities over applications. She also stated that EPA recognizes the need to work on a regional basis to understand what processes are best for local communities when communicating about and engaging on permits. Regarding limited resources, she noted that EPA needs to be judicious about what permits it reviews and be sure to make effective decisions about what kinds of analysis should be done. Ms. McCabe indicated she expects that not all permit applications would require the same amount of intensity of environmental justice review. She noted that EPA will consider surveying how well the process of incorporating environmental justice in the permitting process is working.

Ms. Garcia noted that EPA does have the ability and authority to assess how the Agency can best address the concerns of communities with environmental justice concerns. She stated that the Agency understands the need to look at cumulative impacts. Ms. Garcia indicated the Agency needs to identify ways to reduce pollution and work collectively with stakeholders to accomplish this objective. She stated that EPA is looking at ways to share their environmental justice tools with states so they can improve their effectiveness at addressing environmental justice concerns. Ms. Garcia noted that EPA is looking at impact analysis and it can be incorporated into the Agency's permitting analysis.

### **1.10 Advancing Community-Based Work, Chemical Plant Safety, and Climate Adaption**

Mathy Stanislaus, Assistant Administrator, EPA Office of Solid Waste and Emergency Response (OSWER), discussed OSWER's environmental justice activities and role in Plan environmental justice 2014, including:

- Motivating state-level action.
- Developing an Agency-wide indicator for environmental justice and child health.
- Replicating successes of the Community Action for a Renewed Environment (CARE) program in other environmental justice programs.
- Revising the Definition of Solid Waste (DSW) rule.

- Analyzing EPA’s role and interaction with land use planning.
- Expanding equity for tribes in environmental programs and requirements.

Mr. Stanislaus also discussed the environmental justice benefits of President Barak Obama’s proposed American Jobs Act, including a focus on disadvantaged and unemployed workers, tax credits for small businesses and nonprofit organizations, commercial facility stabilization, and land banking for redevelopment. Finally, he described the environmental justice benefits of the brownfields grant program.

Multiple NEJAC members expressed strong interest in protecting the CARE program and revising the DSW rule to better protect environmental justice communities. Mr. Stanislaus specifically mentioned replicating lessons learned from CARE’s technical assistance, risk communication, and area-wide planning. Responding to concerns about what several members deemed an inadequate response to the NEJAC’s 2012 recommendation about the use of the CAA General Duty Clause, Mr. Stanislaus agreed to provide an update about EPA efforts related to implementing relevant provisions of the Executive Order on Chemical Safety.

### **1.11 Recognizing 20 Years of the NEJAC**

Former Chair Richard Moore, Los Jardines Institute, Albuquerque, New Mexico, commented on the celebration of the 20th anniversary of the NEJAC. He indicated that the celebration needs to occur in communities, tribal nations, pueblos, etc. throughout the country. He noted that the original principals developed during the National Peoples of Color Summit, in 1991, are needed to serve as the foundation of the work at EPA to provide for environmental justice. Mr. Moore stated that the NEJAC has the responsibility of ensuring that EPA engages and includes communities in the development and implementation of its programs, policies and activities to protect the environment and public health.

Former Chair Elizabeth Yeampierre, Executive Director of United Puerto Rican Organization of Sunset Park, New York City, noted that the environmental justice work is on a continuum. She expressed that her health, the health of her family, and the health of people in her community has been impacted by pollution. Ms. Yeampierre indicated that while she was the chair of the NEJAC she learned a lot about politics, collaboration, and other methods of engagement. She stated the three things she focused on while leading the NEJAC:

- that new members be provided an orientation about EPA’s operations and the purpose and functioning of the NEJAC
- that various generations be included in the process
- that climate justice be addressed

Ms. Yeampierre highlighted the importance of communities working together to provide for climate justice, since all are dependent on each other. She stated that it is important that people be afforded opportunities to speak for themselves, emphasizing the need for this to occur in the work on climate justice. Ms. Yeampierre further noted that leadership from people directly impacted is critical, and that they need to “own the agenda.” EPA needs to make sure it takes the back seat and serve to support the local community leadership, she urged. She concluded, noting that she served with a lot of love and commitment and was appreciative to work with a lot of dedicated and committed members.

Mr. Stanislaus noted that he was a charter member of the NEJAC’s Waste and Siting Subcommittee. He stated that he is humbled by the NEJAC experience and is humbled by the many “teachers” in his life. He expressed particular appreciation for the teachers who traveled hours to enlighten the NEJAC members about the work they are doing in their communities and the challenges they have faced. He noted that the way EPA’s Superfund program is being run today, including the Brownfields Program, are a product of the NEJAC’s advice and recommendations. He further stated that the Smart Growth movement and EPA’s focus on cumulative risk is a product of the NEJAC. Mr. Stanislaus indicated the lesson for EPA is that while there

has been much achieved, there is a lot that still needs to be done. He concluded with stating that the intersection of economic and environmental justice is an area of unfinished business.

Mr. Charles Lee, noted that he not only served as a charter member of the NEJAC, but later came to work at EPA where he served as the DFO of the Council. He stated that it was an honor and privilege to speak to the NEJAC. He noted that Mr. Moore, Mr. Tom Goldtooth, Mr. Bunyan Bryant, Reverend Ben Chavez and he were invited to the signing ceremony of the Executive Order on environmental justice but he could not attend. Mr. Lee stated that there is a need to focus on the results of the products developed by the NEJAC. For instance, the NEJAC pushed EPA to create an understanding of its legal authorities for addressing environmental justice, which resulted in the development of the EPA environmental justice Legal Tools document. The NEJAC's advice and recommendations also had a positive impact on the Agency's work on the U.S.- Mexico Transboundary border issues; fish consumption, goods movement, as well as other areas of EPA work. He reflected on the fact that in the earlier days of the NEJAC, the various stakeholders on the NEJAC had a difficult time talking to and working with each other. Mr. Lee noted the significant progress that has been made and the need to expand to ensure the further development of multi-stakeholder partnerships to address the range of environmental justice concerns which exist today, such as issues pertaining to climate change, equitable development, and others. He stated that environmental justice has always been about building partnerships to effectuate positive change in communities with environmental justice concerns. He concluded by saying that the NEJAC needs to be the conscience of the EPA.

Ms. Miller-Travis, a current member who had served previously on the NEJAC Waste and Facility Siting Subcommittee, indicated that the relationships among the various stakeholders have evolved from what were outright antagonistic relationships to what now are effective working relationships. She recognized former NEJAC member Sue Briggum, of Waste Management Inc., as one of the key individuals who helped move the NEJAC from a contentious environment to one of collegiality where there is now respect among the various stakeholder groups, a working family dynamic. She somberly noted that the NEJAC is working to address the challenges that exist in communities, which at times have led to the premature deaths of individuals. Ms. Miller concluded by thanking the EPA staff and the many who have served on the NEJAC, highlighting the importance of working together to get things done.

Mr. Mustafa Ali, Office of Environmental Justice, EPA, noted that Dr. Clarice Gaylord, EPA's first Director of OEJ, was instrumental in getting the environmental justice program up and running at EPA, and led the development of the NEJAC. He then highlighted many individuals who have passed on, who during their lifetimes were instrumental in the environmental justice movement.

### **1.12 NEJAC Work Group on Community Resiliency in Environmental Justice Industrial Waterfront Areas Update**

Ms. Yeampierre, co-Chair of the NEJAC Work Group on Community Resiliency in Environmental Justice Industrial Waterfront Areas, stated that she has worked to create a model for addressing environmental justice issues that face industrial waterfront communities. She noted that climate adaptation standards need to be developed to enhance communities' resiliency. Ms. Yeampierre noted a few of the projected impacts of climate change: storm surge, flooding, extreme participation, high winds, sea level rise, drought, and water insecurity. She expressed the need for support to businesses and industries to help them become climate adaptable so the workers will not be exposed to pollution caused by climate change impacts, and the businesses will be sustained through the impacts. She also noted the need to address the gaps in information and resources to communities who need greater awareness and access to information and resources pertaining to climate change. Ms. Yeampierre stated that partnerships are important across the all stakeholders (federal, state, local, and tribal governments, faith-based organizations, businesses/industry, etc.). She highlighted the need to also ensure the potential climate change impacts to Native American lands are considered as well, noting that perhaps another work group on climate change should be created to specifically address Native American communities given the unique political and cultural aspects of indigenous communities.

Ms. Horne, Work Group co-Chair, noted that there are significant threats to the environment and public health of low-income and minority residents due to climate change. For example, Superstorm Sandy has brought great awareness to the impacts that can be experienced by low-income and minority communities. She indicated that the NEJAC will need to look beyond just the impacts to waterfront community since the weather related impacts occur further inland as well.

Several members posed questions and comments in response to the Work Group presentation. Ms. LaPier noted that in Oregon there is pressure to open up shipping areas to provide ways for the coal in Montana to be shipped to China. She stated that two tribal communities are being pursued to allow port development for the shipping of the coal mined by two other tribes in Montana. She suggested including a focus on this issue in the report.

Ms. Rezendes indicated that it is good that the Work Group is looking at the residential facilities on waterfronts, since some of the waterfronts are already impacted by pollution. She noted that coastal communities are also impacted by tsunamis, which have different impacts than hurricanes, including the fact that Tsunamis also impact communities quite a few miles inland.

Mr. Sheats stated that there is a definite connection between cumulative impacts and climate change impacts, which should be considered. He noted that the President's climate change plan did not effectively include vulnerable communities/communities with environmental justice concerns. He indicated that the NEJAC advice and recommendations could end up informing the White House on how the federal plan can be improved to address vulnerable communities.

### **1.13 NEJAC Indigenous Peoples Work Group Update**

Katsi Cook, Running Strong for American Indian Youth, Washington, D.C., and member of the NEJAC Indigenous Peoples Work Group, provided an overview of the status of the work groups multiple charge. She noted that the Work Group currently is preparing proposed recommendations about EPA's policy on Environmental Justice for federally-recognized tribes and indigenous peoples. However, given that development of the policy is delayed, she requested a 6-month extension to complete the effort to properly respond to the charge. She noted the following preliminary findings:

- Tribal and indigenous peoples are not adequately represented in EPA's plans and programs
- Environmental justice concerns not adequately covered. In addition, Tribes need to understand the pathways to working on environmental justice issues
- There is a need for a specific link within the EPA website that describes traditional ecological knowledge and wisdom. EPA also should consult with the U.S. Fish and Wildlife Service and other agencies in developing website.
- EPA should understand its responsibility to work with community based indigenous organizations and tribal governments.
- EPA should foster interagency collaboration and coordination, including EJ IWG and the recently established IWG on Indian Affairs

Noting that there is a difference between federally-recognized tribes and indigenous group, Ms. LaPier asked why groups that possess legal status are grouped with people who do not have any legal status. Mr. Daniel Gogol, EPA OEJ and Work Group co-DFO, responded that "it's the elephant in the room for the Agency." He noted that EPA understood that when the NEJAC produced a report in 2000 that was contentious even then. As EPA has learned since then, the Agency came to the conclusion that the two were so interrelated that they could not be separated. Ms. LaPier responded that tribes and indigenous groups are not the way to address these concerns.

Ms. Sanders suggested that in its report, the Work Group define traditional ecological knowledge and wisdom (TEKW). She explained she has undergone a learning experience in understanding ecological knowledge in place and space but was concerned about EPA's ability to combine traditional knowledge to science knowledge. She suggested that the Work Group might want to expand its discussion about Agency's interactions on this concept. She also noted that she was "troubled by language "that calls to expand tribes and indigenous peoples eligibility." Ms. Cook agreed and noted that the phrasing should be revised to "capacity building." Ms. Dona Harris, EPA American Indian Environment Office and Work Group co-DFO, added that EPA's Office of Water already is using TEKW in finalizing implementation and consideration of permitting. She added EPA is still learning and is trying to follow recommendation that this needs to be included in the policy moving forward whether there is complete understanding of the concept.

Mr. Strand asked for clarity on the relationship between individual rights as U.S. citizens and their rights as Tribal citizens. Ms. Cook responded that tribal members have rights established through the Indian Reorganization Act of 1934 which included actions that contributed to a return to self-government. She noted that legal standing and voting rights remain a complicated issue that varies from tribe to tribe.

Mr. Kitto stated that he appreciated Ms. LaPier's comments, adding whether the Agency would need to conduct some kind of process to hammer out a definition with which all can agree. He also noted that he was pleased to see work done under TEKW but finds that consensus on approach will be difficult to achieve, largely due to differences among each tribe and tribal subset. However, he stated that the Work Group should not be dissuaded from trying to create something that all can work toward. He asked if the Work Group envisioned some type of tiered system for appeal on environmental justice issues, if there was a starting point for the process, and whether there was an action plan. Ms. Cook noted that Tribal nations are faced with the same issues as the rest of the nation. She added that the Work Group perspective is that area regional offices can do something to help tribes with concerns, adding that although there is a special relationship between agencies and Tribes, the solutions to environmental justice concerns have to come from the tribes themselves. Tribal leaders also need some education on the impact of development on tribal health and communities, she concluded.

#### **1.14 NEJAC Research Work Group Update**

Ms. Peggy Shephard, WeAct for Environmental Justice and co-Chair of the NEJAC Research Work Group, opened the discussion with an overview of the charge from EPA's Office of Research and Development (ORD). Mr. Paul Mohai, University of Michigan and Work Group co-Chair, briefly reviewed the proposed recommendations contained in the draft report. Mr. Jose Zambrano, EPA ORD and Work Group DFO, provided information about the work of ORD and how that work has informed the type of research that has been conducted thus far.

Mr. Doi asked what success looks like under this paradigm, adding that he would like to see something to do with performance success measures. Dr. Mohai indicated that the work group had discussed whether to define what success would look like, noting that what the baseline is today likely will require a new strategy. At the moment they don't have all of the answers, he said.

Mr. Henderson noted that as the Work Group thinks about the skills needed within EPA's research enterprise, he urged the Work Group to propose recommendations that consider some of those communities in which EPA is interested in working so that the work may be easier.

Ms. Miller-Travis asked whether, in its report, the Work Group had mentioned the need to train the next generation of leaders who can work on their communities. Noting that the Work Group was now chaired by two non-NEJAC members, she questioned whether there was a need to assign a current NEJAC member to serve as co-chair of the work group since generally a member and non-member jointly chair most NEJAC work groups. Ms. Robinson advised the members that if the term of the Work Group were to be extended

then there would be the process to add another representative to the work group.

Mr. Sheats said that he liked the recommendation to engage community early and often. He wanted to know what the theme would be as the work group looked at recommendations. Dr. Mohai indicated that it was reinforced over and over within the work group that there was the need to engage community early and often

Ms. LaPier asked whether TEKW is being included in the recommendations from the workgroup. Ms. Shepherd responded that TEKW was considered throughout the report. She closed by stating that there were a couple of other calls planned for the work group.

### **1.15 NEJAC Next Steps**

During this portion of the meeting, the NEJAC members engaged in a conversation about issues raised during various portions of the two-day meeting.

**Public Comment Period.** Several members expressed frustration with the process by which public comment periods are conducted. Concerns included whether the 5-minute limit should be extended, ensuring that the Council enforces the time limit fairly, and clarification about the purpose of the public comment period. After some discussion, the members agreed to table the conversation for a fuller conversation during an Administrative Meeting.

**Meeting Structure.** Members encouraged EPA to consider convening two face-to-face meetings per year rather than once a year. Members also requested that EPA explore ways to record meetings and prepare transcripts using professional transcribers. In addition, members recommended that adequate time be set aside for members to interact outside of the formal process.

**Agency Commitments.** Ms. Robinson reviewed agency commitments made by Agency representatives during the meeting. Ms. Garcia asked members to submit additional comments or questions they had for the Administrator, adding that they will be submitted to the Administrator. Mr. Strand asked Ms. Garcia to communicate the NEJAC's support for continued funding for CARE

**Information Requests.** The NEJAC members made the following requests for additional information or follow-on activities:

- Requested that, if possible, N'Taki Osborne Jelks, West Atlanta Watershed Alliance, provide the NEJAC an update about the status of the urban waters partnership project as part of the next NEJAC public comment period
- Requested an analysis of the frequency of Agency responses to FACA committee advice and recommendations
- Requested that EPA provide an amended response to the NEJAC March 2012 advice letter about preventing chemical disasters, addressing specifically the council's call for EPA to exercise the general duty clause of the Clean Air Act (CAA) to regulate chemical facilities under the CAA, as well as to explain the role of OSWER in implementing portions of the CAA. Requested deadline for EPA response

Responding to member requests, Ms. Robinson agreed to develop a database to track and update members about the status of action items and Council requests.

**NEJAC Work Plan.** Members discussed a variety of possible topics that it wished to pursue as part of its work plan for FY2014-2015.

- EPA Climate Change Adaptation Implementation Plans. In response to an offer to review the 17

plans prepared by EPA program and regional offices, the NEJAC discussed whether to review plans and make comments as a body or as individuals. Ms. Robinson explained that the Council could either breakout into smaller groups and come back with recommendations as a body or individuals may choose to concentrate on one or more plans and provide individual comment. Members agreed to table the decision for discussion at the Administrative Meeting.

- EJ in Permitting Phase 2: In response to a request for continued NEJAC input into the second phase of EPA efforts to incorporate environmental justice into permits, the NEJAC agreed to convene a new EJ in Permitting Work Group to provide recommendations regarding Plan EJ 2014 EJ in Permitting Phase II focus on EJ analysis and permit outcomes.
- Hydrofracturing. The members agreed to table the decision to review a course of action for possible consensus advice around hydrofracturing. In the interim, Ms. Guajardo and Ms. Sanders will meet to discuss possible findings and recommendations for a possible letter.
- EPA IRIS Risk Assessment Process. The members agreed to table the decision whether the NEJAC should issue consensus recommendations around ensuring a “fair” EPA IRIS risk assessment process
- Title VI. The members agreed to table the decision whether the NEJAC should provide consensus recommendations about Title VI concerns. Specifically the request would consider convening an external workgroup on Title VI to provide more deliberative process for an ongoing dialogue for outcomes, timelines, etc.

Ms. Robinson announced that the NEJAC will convene via public teleconference prior to a face-to-face meeting in late Winter. She noted that EPA is exploring a face to face meeting in Denver in February 2014, to leverage the Smart Growth Conference and Equitable Development Workshop.

Mr. Tejada announced that the EPA Environmental Justice Small Grant programs will alternate with the EPA Collaborative Problem Solving grant program that offers larger awards to fewer recipients. Ms. Miller-Travis noted that the move sounds like a good idea if there was a single pot of money but there are many communities that will not have other options. Mr. Tejada responded that the move allows small grantees to use and analyze and to determine if this will work and if the money is going where it needs to go.

## **2.0 PUBLIC COMMENT PERIOD**

On September 11, 2013, the NEJAC held a public comment period to allow members of the public to discuss environmental justice concerns in their communities. A total of 17 individuals submitted verbal and written public comments to the NEJAC. This section briefly summarizes the spoken testimony and the associated NEJAC conversation, as well as the written comments submitted to the record. Attachment B presents written public comments and handouts that were submitted for the public comment period.

### **2.1 Spoken Testimony**

#### **2.1.1 Makara Rumley, GreenLaw, Atlanta, Georgia**

Ms. Makara Rumley, Environmental Justice Attorney for GreenLaw, a non-profit law firm, raised concerns about what she termed “an existing paradigm,” which she states prevents citizens from challenging environmental abuses under the Clean Air Act and Clean Water Act, even though both acts provide for citizen suits to challenge excessive polluters. She notes that the financial burden of bringing such a lawsuit is cost prohibitive, even when she provides free legal services, due to the costs of expert fees, which can range from \$25,000 to \$100,000. Ms. Rumley suggested that a portion of the fines that are collected from violators be deposited into a fund that could assist with expert expenses in citizen suits.

Mr. Sheats pointed to EPA OSWER’s technical assistance funds, as well as organizations like the New Jersey Union of Scientists, as possible sources of free or “low-bono” technical assistance. Ms. Sanders asked

whether the creation of a 3<sup>rd</sup>-party administered fund to which industry could contribute might serve as a source for technical assistance. She noted that such a fund should not be used for litigation but rather to assist communities to be better informed.

### **2.1.2 Bill Burns, Environmental Awareness Foundation, Atlanta, Georgia**

Mr. Bill Burns, Environmental Awareness Foundation, focused his comments on household health hazards, such as lead-based paint and mold. He asked what the NEJAC could do to push or pull States to regulate mold. Ms. Garcia committed to provide Mr. Burn with information about remediation of household mold from EPA OAR and the U.S. Department of Housing and Urban Development. Ms. Miller-Travis added that the U.S. Department of Health and Human Services (Centers for Disease Control) has a healthy homes initiative that could offer information.

### **2.1.3 Jimmy Hall Sr., Kentuckians for the Commonwealth, West Salem, Ohio**

Mr. Jimmy Hall Sr, Kentuckians for the Commonwealth, expressed his frustration at being unable to live on his West Virginia homestead because of a lack of potable water. He blamed the state for how it has handled permits to a local mining company he blamed for “taking his mountaintop” and polluting the water. He urged the NEJAC to recommend that EPA take over the permitting process from the state. Mr. Ellerbrock noted that faculty working in Virginia Tech’s extension program could offer assistance in the Surface Mining Reclamation Act.

### **2.1.4 Richard Moore, Los Jardines Institute, Albuquerque, New Mexico**

Mr. Richard Moore, Director of the Los Jardines Institute, expressed concern about the April 2013 ammonium nitrate explosion at the West Fertilizer Company storage and distribution facility in West, Texas. Citing permitting failures, he urged NEJAC to push EPA to use the general duty clause of the Clean Air Act (CAA). In addition, he asked when EPA would convene a FACA committee or work group to address outstanding concerns about Title VI. Ms. Miller-Travis echoed Mr. Moore’s concerns, adding that EPA’s response to NEJAC recommendations was inadequate.

### **2.1.5 Michelle Roberts, Environmental Justice and Health Alliance for Chemical Policy Reform, Washington, D.C.**

Michelle Roberts, Environmental Justice and Health Alliance for Chemical Policy Reform, pressed the NEJAC to offer a resolution urging EPA to better protect communities. Specifically, she demanded:

- The addition of language about “hot spots” in chemical safety impact analysis
- Ensuring that the risk assessment process under EPA’s Integrated Risk Information System (IRIS), a human health assessment program that evaluates information on health effects that may result from exposure to environmental contaminants, is executed fairly and not slanted toward industry
- NEJAC convene a work group on Title VI of the Civil Rights Act of 1964

Mr. Strand noted that he thinks many affected communities have “relinquished much to get a seat at the table. Ms. Miller-Travis, concerned by what she deemed EPA’s poor response to some previous NEJAC recommendations, urged an analysis of Agency responses to recommendations submitted by other EPA federal advisory committees.

### **2.1.6 Reverend Charles Utley, Blue Ridge Environmental Defense League, Augusta, Georgia**

Reverend Utley expressed concern about two issues: 1) implementation of EPA’s Brownfields program, and 2) nuclear power. Regarding the Brownfields program, he stated that the program takes too long to put

blighted land back into productive use. Citing the Hyde Park community in Georgia, he explained that EPA had begun the process 15 years ago and it has taken all this time to finally come to a resolution. He asked the NEJAC to advise EPA to change its program to ensure the process is sped up for Brownfields cleanup and relocation when necessary. Reverend Utley also stated that a contractor had not been assigned, as is customary, to work with the local community. He noted that a state agency took jurisdiction over the Brownfields area, which was a junk yard. He shared that the community pursued another grant to study impacts to the community.

Turning to his concerns about the construction of nuclear reactors in a rural community, Reverend Utley stated that the Sheffield community, in Waynesboro, Georgia, has been identified as a location for two nuclear reactors. He noted that it is a small community, with whom he has worked to understand how to monitor for radiation and learn about other potential environmental impacts that may come from nuclear power plants. He recommended that the NEJAC ask EPA to ensure that the community has a “shelter” to go to in the event of an incident. Reverend Utley expressed concerns that Executive Order 12898 is not being implemented by responsible federal agencies. Reverend Utley asked that the federal government hold the company accountable for what they are planning to do and what they are currently doing. He asked the NEJAC to recommend that EPA and other federal agencies, including the Nuclear Regulatory Commission, the Federal Emergency Management Agency and the Georgia Environmental Protection Division, fully implement environmental justice mandates including but not limited to Executive Order 12898 at Plant Vogtle nuclear power plant.

#### **2.1.7 Juan Parras, Texas Environmental Justice Advocacy Services, Houston, Texas**

Mr. Parras, who is working for a non-profit organization in Houston, Texas, expressed concerns about the potential impacts from the proposed Keystone pipeline. He indicated that the Keystone Pipeline oil is expected to be refined in the Houston area, and adjacent to vulnerable communities. He also stated his concern that the 400 plus chemical facilities in Houston are potential targets for a terrorist attack. Mr. Parras noted the communities’ concerns about chemical security, due to the potential risks of accidents and potential terrorist attacks. He stated that any accident in a single chemical plants can kill up to 10,000 individuals in the area, and, therefore, we need to be serious about chemical security and ensure risk management plans are enhanced in the Houston area. He raised questions about whether TSCA is being implemented properly and protects communities from chemical emissions and accidents. Mr. Parras stated that EPA needs to implement rules and regulations to reduce the use of hazardous chemicals and develop new methods for industrial processes. Mr. Parras asked that the NEJAC recommend to EPA that they include rules and regulations that require companies to reduce chemical use and develop greener chemicals for use. He explained that, based on the environmental impact statement of the State of Texas, it is believed by communities that the Keystone pipeline oil is expected to be refined in a number of facilities in the Houston area.

Mr. Horace Strand, Chester Environmental Partnership, New Jersey, noted that the City of Houston does not have a “buffer requirement” regarding facility location relative to housing. He suggested that community organizations work with their local government to change the zoning ordinances to provide protection for the communities.

#### **2.1.8 Connie Tucker, Private Consultant, Alabama**

Ms. Connie Tucker, previous director of the Southern Organizing Committee (SOC), discussed how SOC had built a powerful collaboration with various non-profit organizations. She noted that during the early years SOC had spent significant time helping to build the EPA environmental justice program. She expressed concerns about the current state of EPA Region 4’s environmental justice program, noting that she feels the Region is neither paying proper attention to nor ensuring the proper staff in place to support the communities with environmental justice concerns. Ms. Tucker asked that the NEJAC recommend to the EPA that additional staff, who are committed to environmental justice, be assigned to the environmental

justice program to be responsive and attentive to the needs of vulnerable communities.

### **2.1.9 Na'Taki Osborne Jelks, West Atlanta Watershed Alliance, Atlanta, Georgia**

Ms. Jelks noted that her community is home to Proctor Creek, a prominent resource that had served as a gathering place for recreation, baptisms, fishing, and for other community events. She stated that it is now a contaminated hot spot, identified as one of the top four hot spots in Atlanta due to an aging sewer system, neglect by the city, and other ailments. The watershed within the community was identified as a federal partnership project, under the Urban Waters program, she noted. However, Ms. Jelks expressed her frustration that the community was not brought into the decision-making process to address the environmental and public health issues in the community. She noted that there have been considerable planning efforts conducted for the redevelopment, but the community was not involved in the planning process, which has included drawings and pictures developed to show what the redevelopment will look like. Ms. Jelks asked that the NEJAC recommend to EPA that the Agency supported community redevelopment initiatives ensure the impacted or benefiting communities are afforded meaningful opportunities to participate in the planning process. She also suggested that the EPA environmental justice coordinators from each region be involved to ensure there is proper outreach and engagement to communities with environmental justice concerns.

Mr. Felix Kitto, Santee Sioux Nation, Nebraska, noted that too often communities and tribes are left out of the planning processes for economic development, redevelopment or environmental and public health protection programs occurring in their communities or may benefit or impact tribes.

Ms. Lisa Garcia stated she will go back and discuss the concerns raised and recommendations provided with the Urban Waters program coordinators. She noted that the program was intended to be initiated at the local level with the communities being engaged at the beginning of the process. She apologized for this incident happening within the Urban Waters program. Ms. Denise Tennessee, EPA Region 4's environmental justice program, committed to have the Region do a better job of working with communities and tribes to ensure they are provided the opportunities to be meaningfully involved in the Urban Waters program and related programs managed by EPA in Region 4.

Mr. Sheats invited Ms. Jelks to return to the NEJAC to provide an update about any resolution of the issue.

### **2.1.10 Elaine Tanner, Kentuckians for the Commonwealth, West Salem, Ohio**

Ms. Tanner, Kentuckians for the Commonwealth, expressed concerns about the Safe Drinking Water Act and problems associated with the steps it takes to obtain clean water for a community, such as the Mill Creek, Kentucky community, which has been impacted by mining activities. Ms. Tanner explained that the 94 families in the Mill Creek community are without water and have filed a petition under the emergency powers for imminent and substantial danger of the Safe Drinking Water Act. She voiced frustration at the steps a community has to go through to prove that an area has been impacted by mining, and the loopholes that get in the way of the process. Ms. Tanner indicated that there are state actions and state errors that have taken place, including a lack of oversight and enforcement that have prevented the proper protection of the community.

## **2.2 Written Public Comments**

### **2.2.1 Evangeline Davis, Louisiana Environmental Justice Community Organization Coalition, Vacherie, Louisiana**

Ms. Davis, President of LEJCOC-Louisiana Environmental Justice Community Organization Coalition, asked that two documents be included in the public record: 1. Louisiana- Bayou Sorrel Iberville Parish, "Down on the Bayou," and 2. Louisiana- Convent-Hwy 44 St James Parish "Surround Senses"

### **2.2.2 Lita Toney, Concerned Citizen, Lincoln Park, Michigan**

Ms. Toney, a concerned citizen, stated that local municipalities like hers, have no money to repair the communities' sanitary systems which have exceeded their life expectancies. She noted that her own local government cannot keep up with the proper maintenance of the systems throughout her city and that residents live in fear of their basements flooding with raw sewage, which has occurred over the years. She asked that something be done quickly to help her and the many others in her community which face this public health threat and damage to their property.

### **2.2.3 Marvin Robinson, Quindaro Ruins/Underground Railroad-Exercise 2013, Kansas City, Kansas**

Mr. Robinson, an Independent Volunteer Researcher for the Quindaro Ruins/Underground Railroad-Exercise 2013, noted that EPA's focus in his community has been on toxic hazardous waste issues and associated problems. However, he noted it is important for EPA to expand its attention to include the concerns the community has about air emissions from coal powered plants and manufacturing operations. Mr. Robinson asked that the NEJAC conduct a tour of the environmental justice successes in communities, similar to the New York City tour, to highlight the positive developments which have occurred.

### **2.3.4 Michael Jacoby, Private Citizen, Seven Valleys, Pennsylvania**

Mr. Jacoby, private citizen, expressed interest in having local environmental pollution data checked to confirm its validity. He noted that inaccurate data and misleading information exists for communities. Mr. Jacoby stated that the decision, in 2009, to remove the siting tool used by the public, academia and government agencies etc. to accurately report Errors for Correction has turned out to be a major problem for the Administration after they decided to use computerized "algorithms." He noted that these algorithms, although based on available information, are sometimes ambiguous and not always verified by local governments before or even after the data was entered into the EPA's data system. He proposes that the NEJAC address the issue with the EPA Administrator, the White House Council on Environmental Quality. Until the issue is fully addressed, Mr. Jacoby continued, he requested that EPA personnel use the Clip and Ship method or standard Error Notification process depending on the amount of locational errors discovered.

### **2.2.5 Jeannie Economos, Farmworker Association of Florida, Apopka, Florida**

Ms. Economos, Pesticide Safety and Environmental Health Project Coordinator, Farmworker Association of Florida, requested that EPA, USDA, and specifically the U.S. Office of Management and Budget, adopt revised and improved Worker Protection Standards (WPS) for farmworkers to improve environmental and workplace health for farmworkers and their families and to reduce their exposure to harmful chemical pesticides. Specifically, Ms. Economos requests that EPA adopt the following enhancements to the worker protection standards:

- Require more frequent and more effective pesticide safety training, delivered in a language and manner that workers will understand;
- Ensure that workers receive timely information about the use, location and hazards of specific pesticides on the farms where they work, including improved posting during Restricted Entry Intervals;
- Require medical monitoring of workers who handle neurotoxic pesticides;
- Prohibit early reentry work during REIs;
- Provide special protections for pesticide handlers, including respirator fit testing, required use of closed systems and enclosed cabs with highly toxic pesticides, and improved training;

- Prohibit pesticide application by minors;
- Improve enforcement of safety standards at the state level

#### **2.2.6 Delice Calcote, Alaska Inter-Tribal Council, Anchorage, Alaska**

Ms. Calcote, Executive Director, Alaska Inter-Tribal Council (AI-TC), a tribally governed consortium organized in 1991 to support tribal governments throughout Alaska who are the public authority and stewards of tribal homelands, culture, traditions, languages, and way of life. Ms. Calcote urged eliminating the use of chemical dispersants in Alaska and address the environmental injustice of the lack of effective emergency preparedness and planning. She expressed concern about the injustice of EPA pre-authorizing the use of Corexit and other toxic chemical dispersant substances in Alaska's waters. Ms Calcote noted that tribal and coastal communities are more prone to the first exposure to dangerous pollutants from accidents, spills, leaks into the marine and coastal areas of Alaska, which covers more area than the rest of the contiguous United States. She stated that the indigenous peoples, coastal communities are adversely and disproportionately impacted by natural resource extraction and exploitation activities and marine shipping and more so as military/ industrial resource activities expand into Alaska's Arctic with changing climatic conditions that are occurring. Ms Calcote noted that the Intertribal Council recommends that the Alaska Regional Response Team include the tribal governments as a means to participate in pollution incidents, and equitably participate in policy making for emergency response and planning activities in accordance the national contingency plan. Inclusion of tribes should be a priority for all agencies working on planning and response contingencies for disaster pollution incidents in Alaska.

#### **2.2.7 Carl Wassilie, Alaska's Big Village Network, Anchorage, Alaska**

Mr. Wassilie, a biologist with the Alaska's Big Village Network (ABVN), expressed the need to eliminate the use of chemical dispersants in Alaska and ensure the effective development and implementation of emergency planning in collaboration with tribal governments and communities in Alaska. He stated that the mission of the ABVN is to create communities of inclusion of indigenous and non-indigenous peoples for the health of all peoples' mental, social, physical, environmental and spiritual well-being applying ancestral wisdom of indigenous peoples' honor, respect and dignity of the whole living and non-living universe. He noted that ABVN recognizes that every single village has a critical stake in all aspects of emergency response planning and pollution incidents as tribal culture, health, and future food sources depend on protection of water and natural resources. Mr. Wassilie stated that EPA's pre-authorization of the use of toxic chemical dispersants in emergency response planning in Alaska circumvents the Clean Water Act, and did not involve tribal authorities in the decision-making process. The ABVN recommends that the Alaska Regional Response Team be expanded to include the tribal governments to provide the opportunity for their participation in pollution incidents, and equitably participate in policy making for emergency response and planning activities in accordance the national contingency plan. He noted that Alaska's tribal communities are the first responders to emergencies in Alaska's Arctic. With this in mind, Mr. Wassilie stated that the inclusion of tribes should be a priority for all agencies working on planning and response contingencies for disaster pollution incidents in Alaska. He asked that the NEJAC recommend to EPA that they make it a priority to eliminate the use of chemical dispersants in oil spill response in Alaska.